SENATE—*Thursday, July 30, 1992*

(Legislative day of Thursday, July 23, 1992)

The Senate met at 9:30 a.m., on the expiration of the recess, 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:

Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

Gracious God, perfect in love, we are amazed as we hear the word of the prophet Isaiah, speaking on behalf of the Lord, inviting us to "reason together." Isaiah reminds us that Thou art a forgiving God, Thou dost love us because Thou art love. There is nothing we can do to make You love us more than You do, and there is nothing we can do to make You love us less than You do. You love with a perfect love. No good works that we do will increase Your love for us, and no sin is so great that it can reduce Your love for us.

Eternal God, help us understand that when we confess our need, our failure, our sin, we are forgiven, and guilt is removed. When we refuse to confess, guilt is compounded in our hearts. You have promised, "If we confess our sin you are faithful and just to forgive us our sin and to cleanse us from all unrighteousness." Help us not to hide from Thee, to acknowledge our need and receive divine absolution.

In the name of Him who is incarnate Love. 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 30, 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.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, at 10 this morning the Senate will return to consideration of the energy bill. It is my hope that we can complete action on that measure today. It is a very important measure, necessary for our country's economic future, and it is imperative that we complete action on it so that the matter can go to conference with the House of Representatives in time to permit final action before the end of the year.

Following that, the Senate will take up one of the appropriations bills now pending on the calendar. There will be several more of those that we hope to take up in the next few days. Votes are expected throughout the day and into the evening today, as will be the case every day between now and the time the Senate breaks in mid-August.

I encourage all Senators who wish to offer amendments to be present on the floor, and to do so promptly, so as not to cause delay, and therefore require the Senate to be in session later in the evening than would otherwise be necessary.

I thank my colleagues for their cooperation.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Chair recognizes the Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, parliamentary inquiry. Was there a special order entered into for time for the Senator from Vermont?

The ACTING PRESIDENT pro tempore. The Senator from Vermont is authorized to speak for up to 15 minutes under the special order.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 3098 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LOTT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Mississippi [Mr. LOTT] for up to 15 minutes.

Mr. LOTT. Under the order, I do have up to 15 minutes: Is that correct, Mr. President?

The ACTING PRESIDENT pro tempore. That is correct.

GOVERNMENT WORKING TOGETHER

Mr. LOTT. Mr. President, as I go back to my home State of Mississippi, quite often people look at me in amusement, in a way, and they say, "What is the problem in Washington? Where is the gridlock?" I know that Senators from all over the country hear that question. People want more positive action; they want the Government to work together.

So the question quite often is, "Where is the problem?" A lot of the candidates across America today are saying, "It is the President, or the Presidents; it is President Bush; it is President Reagan or even President Carter. Blame the Presidents."

Mr. President, every day when I walk onto the floor of the Senate, I am looking at the problem. The problem is the Congress. The Congress is not doing its job. It is not the President, President Bush or other Presidents. It is the Congress. For 20 years, I have watched this problem; as a House Member for 16 years, serving in the leadership in the House, and now as a Senator for the past 4 years. This is the problem. As Walt Kelly so eloquently said, "We have met the enemy, and he is us."

Just to begin this discussion, since we are going to be debating the energy bill later on today, I remind my Senate colleagues that 18 months ago we had a problem in the Persian Gulf. The American people were concerned about

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

being dependent on oil from that part of the world—Kuwait, Saudi Arabia, Iran—wherever it might be. There was a real feeling that we needed to, at long last, do something about energy policy and energy independence. Once again we were given a chance to do something, to address the needs in America for energy development, energy exploration, energy conservation, energy alternatives. Well, that was over 500 days ago, Mr. President, President Bush came to the Congress with a very good, broad energy policy, and the Congress has been systematically chipping away at it ever since, taking away good parts, narrowing it down, adding bad parts. The bill has been balled up the last few days, or maybe even weeks, over an unrelated issue, really, having to do with coal pension funds. This issue is not going to produce any more energy. Maybe it is a legitimate issue, but it has been tangling up the energy bill.

President Bush sent a very good energy strategy bill to the Congress in 1991, some 515 days ago. Finally, after the passions of the Persian Gulf have dwindled, the Senate is perhaps going to today pass—no, it is going to stagger toward maybe passing—a national energy policy. That is exhibit A of where the problem is.

The problem is the Congress.

Now, President Bush has been accused of all kinds of things in the past few months: He has no domestic policy; he only has one eye; he only looks at foreign policy. I heard that discussion in debate in the Senate a few weeks ago bashing the President for only having one eye, and I sat here and gritted my teeth, thinking it would never end. Somebody called to my attention a great quote—I am not sure where it is from, but it said, "In the kingdom of the blind the one-eyed man is king." In this instance, it is the President.

Whether the President only has an eye for foreign policy or not, at least he has an eye for something. The Congress does not seem to have an eye for anything. It is blind to the problems the American people are suffering with and dying over.

I submit the President does have both eyes, and he is working to give Congress proposals that we should take up, debate briefly, and pass.

Let me just give you the list of proposals that President Bush has sent to the Congress over the past 3 years which address every major problem America faces today. I call the attention of my colleagues to this chart: Bush Initiatives Held Hostage By Congress. The days are calculated as of July 28, 1992.

First, the Educational Excellence Act introduced April 5, 1989, in the House by Congressman GOODLING, a former teacher and a leader in education policy. That education excellence bill has been held hostage over 1,210 days. If the Congress is so interested in education, why, in over 1,200 days, could we not at least take this issue up and seriously debate it?

Ladies and gentlemen, we cannot make education better in America by doing the same old thing and just pouring more money into it. We have to look outside the normal circle and find a better way of presenting education and providing learning for our children in America. Then, the Savings and Economic Growth Act of 1990 was introduced by Senator PACKWOOD, February 6, 1990, providing incentives for savings and investments to stimulate economic growth. It was referred to the Finance Committee. It has never been passed there—it is 908 days old. It has been held hostage also for almost 1,000 days.

The Crime Control Act of 1989, was introduced by the distinguished Senator from South Carolina [Mr. THURMOND] on June 20, 1989. We have passed a pretty good crime bill in the Senate. It went to the House. They decimated it. We went to conference, and on a weekend, in the still of the night, the Senate caved into the House and destroyed a good crime bill. It is still languishing in the Senate while people are being raped and killed in the streets of Washington, DC; Milwaukee, WI; Jackson, MS. Yet we just wait. We have held the crime control bill hostage for 774 days. How long is enough, Mr. President?

The Enterprise Zone and Jobs Creation Act of 1991 introduced May 9 of 1991 by Senator DANFORTH, designated not 25, like the Finance Committee did yesterday, but 50 enterprise zones to seriously try to address the problems of depressed areas. It provides tax incentives for job creation. Once again, we find it has been delayed 519 days.

The national energy strategy, which I mentioned earlier, is the next issue.

Line-item veto legislation, a constitutional amendment, was introduced by Senator COATS, January 14, 1991. As the Presiding Officer knows, 43 State Governors have that authority. The President would like to have it, too. It is not a partisan issue. There are Democrats for it, Republicans for it, Democrats against it and Republicans against it. But the American people, I will tell you, would like to see the President have this. One candidate for President, Bill Clinton, has endorsed the concept. He understands it. The Congress does not understand it. The Congress is the problem. For 460 days this issue has been delayed, held hostage without action.

Next, health liability and quality care. When I go home, people are more concerned with health care than any issue other than the deficit. The people ask, "What about health care affordability and accessibility? Can we get it in rural areas? How much is it going to cost? Will you do something?"

Senator HATCH, on May 22, 1991, introduced a bill that encourages States to reform medical tort laws, eliminate adversarial patient health care provider relationships, and other good things. This bill has not seen the light of day. It has been held hostage 440 days.

Last on this list, which I assure you it is not a complete list, is not just a short-term political fix, but the Long-Term Economic Growth Act of 1992, introduced in February of this year by Senator DOLE. This was a fantastic package, providing incentives for long-term growth; proposing the President's comprehensive proposals, a number of which I will get into in more detail in a minute; and including an entitlement growth rate cap. Once again, that legislation languishes, and it has been doing so for well over 180 days.

Mr. President, the problem is the Congress.

These are past-due bills, overdue accounts. The American people understand this. They want to know why this list is not being addressed. But these past-due bills languish while we frolic in the aisles with long-winded speeches.

If the American people want to do something about the gridlock in Washington, then they should do something about the Democratically controlled Congress. Give us a Republican Congress, and I am going to give you a list of what we would do at the conclusion of my remarks.

In my limited time remaining, let me go to the next chart: "Initiatives * * * the unlegislated Bush agenda." In terms of broad categories, what is the President proposing on economic opportunity, economic growth, energy policy, trade initiatives? He has addressed these categories with bills in each instance.

To promote economic opportunities, he proposed the Enterprise Zone—Jobs Creation Act of 1991 and the Community Opportunity Act of 1991.

To restore economic growth, he proposed the Savings and Economic Growth Act of 1990 and the Long-Term Economic Growth Act of 1992. If we had passed that bill in March the economy today would not be so sluggish. One of the most astonishing things to me is the President made a proposal to the Congress to find incentives for growth with tax incentives. Yes, tax breaks to the American people. After all, it is their money. Congress turned it into a $100 billion tax increase, and they took out the $5,000 tax credit for first-time homeowners. I do not understand the economics of that. I cannot understand the politics of that. If we had passed the President's package then, we would be having some serious growth now in the economy.

Let me again mention energy policy. The distinguished Senator from Louisiana has done yeoman's work on this bill. So has the Senator from Wyoming [Mr. WALLOP]. They have tried and

tried again, while their colleagues played games with the national energy policy.

For 18 months we have failed to act in energy policy, but it is not the fault of the leaders of the committees. They have tried. It is because the boys and girls of the Congress will have their fun.

To improve our trade imbalances and create jobs here in America, the President proposed the Enterprise for Americas Initiative Act of 1991. I am frankly not a total free trader. In my head, I guess I know it is what we ought to do, but in my heart I have real problems with it. I want to be fair trade. But this is clearly something we should address. It is a world market. We have to get in it. Yet we cannot get this bill through the Congress because the Congress is in gridlock.

Let me go to the specifics of the President's short-term economic growth proposal now because I am running out of time. This is, I think, the most important area.

The President made a proposal in his State of the Union Address to the Congress to get the economy moving. He gave us a challenge: do it in a limited number of days. Of course, we dropped that ball. We will be lucky if we pass even parts of it in 200 days after he asked for it. These were not insignificant proposals.

I believe the capital gains tax rate reduction is particularly important. The Finance Committee marked up tax legislation yesterday, and the committee would not even give that capital gains break to the depressed areas for enterprise zones. They were afraid it might benefit the people creating jobs instead of people wanting to get jobs. When will we wake up?

This past weekend, I was in Port Gibson, MS. A guy says: "I have 60 acres of timber, and I am not going to sell one tree until you reduce that capital gains tax on timber. I am not going to give up what I have worked for years to try to live on in retirement to taxes."

In Liberty, MS, at the drugstore I met with people—man, woman, black, white, young, old. I asked them, "Do you think we ought to have a capital gains tax cut?" Without any details, every hand went up. They have it figured out in Liberty. We do not have it figured out here. Capital gains tax rate reductions would help the economy and create jobs.

First-time home buyer tax relief: Home building is the engine that pulls the economy. When home building is flat, the economy is flat. When you build homes, you give people the opportunity for the American dream, rich and poor, young and old. Timber is cut. The economy grows. Yet, we will not give that to the first-time home owner.

The alternative minimum tax rules are clearly depressing the economy, and keeping business and industry from doing some things they need to do such as investing in productive machinery. Simplification of these rules is critical.

Individual retirement account flexibility is needed. To show that we need this, just yesterday the Finance Committee changed the rules on that in the committee-reported tax bill. Taxpayers will again be allowed to have a $2,000 a year deduction for contributions to IRA's and will be granted additional flexibility for penalty-free early withdrawals.

Where have they been? We made that mistake in the tax bill when we took it away a few years ago. IRA flexibility would clearly encourage people to save, and give them a chance to use their savings for homes, medical care, and college tuition. The Finance Committee has figured it out. But it took them a couple of extra years.

The investment tax allowance, and passive loss relief were also included in the package the Finance Committee is going to be bringing to the full Senate. Why did we not do that 200 days ago, I ask my colleagues in the Senate?

Finally, real estate investment by pension funds, clearly modification of the rules governing these investments is something that would help the economy.

So anybody that wants to say the President has not tried has not looked at the record. The President did suggest initiatives for the Congress. The Congress would not act.

How much time do I have?

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

Mr. LOTT. Mr. President, would it be appropriate for me to ask unanimous consent to extend my time for an additional 5 minutes?

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

Mr. LOTT. Thank you very much.

Mr. President, let me shift again to some other areas. I want to talk a little bit about the reform agenda. Do we need reform? Of course we need reform. Do we need change? Yes. But not change just for the sake of change. We need well thought out initiatives. The President has sent a reform agenda to Congress.

We have had banking reform proposals including: Financial Safety and Consumer Choice Act of 1991 and Credit Viability and Regulatory Relief Act. Do we need regulatory relief? Absolutely. The regulators are running wild. Bureaucrats are running wild all over the country. There are career service people down in the woodwork, termites that are continuing to eat at the fabric of America. We need regulatory relief.

Crime reform: There have been a couple of good bills in that area. Do we need to reform habeas corpus, give law enforcement people more assistance? Absolutely. Do we need the death penalty? Yes. Do we need laws on the books that punish the criminals and try to help the victims? Yes. Why has not the Congress acted? This is where the gridlock is.

Education reform: Look, I am not wedded to this bill or that bill. I am wedded to the idea that education in America is not getting the job done. Let us change it. I have some radical ideas on what I think we ought to do in that area. I do not think teaching every high school senior physics is necessarily a good idea. I think they would be better off in a lot of cases taking computer science, or a vocational training program, or music. We ought to ask ourselves: What are we doing in education in America?

Government reform: I have already mentioned the line-item veto.

Health care reform: clearly this is an area we need to be addressing, and judicial reform. Do you want to make the American people mad? Ask them about what is happening with tort liability and medical malpractice. Ask them what they think about lawyers in America bringing frivolous lawsuits and taking 40 percent of the judgment for a person that has been hurt. Do they want reform? Absolutely. The President has made proposals. The problem is the Congress has not acted.

I want to talk just briefly about health care reform. The President has made a good proposal. Is it socialism? No. Is it national health insurance, or pay-or-play? No. Is it anything that would let the Federal Government run health care in America? No. If you like the way the Postal Service works, you would love the way Government would run health care. Look at what a mess we are making. Medicare, Medicaid—the cost is astronomical; running through the ceiling.

The President has a very well thought out proposal. It offers a market-based solution, expands health care coverage, controls costs, improves quality, provides low- and moderate-income Americans with tax credits or deductions to purchase health insurance. There are a lot of people that cannot get insurance. A self-employed entrepreneur cannot get coverage. We need to make sure that they have deductions or credit so they can have it. It gives Americans long-term security and the President's plan pays for itself.

I watched the Democratic Convention in New York. Yes, let us have more money for infrastructure, for health care. More money here, more money there. Everybody get on the wagon. We could all ride. Somebody has to pull the wagon, Mr. President. It is not going to be the Congress. The Congress will not even be paying for it.

Let me conclude by a list here of what would be going on now with a Republican Congress. Americans would have modernized their financial system

to attract needed capital to create jobs, and to encourage economic growth. We would have reformed habeas corpus rules, toughened up crime provisions to lock up violent criminals, giving all of us safer neighborhoods.

Americans would have enterprise zones. Instead of limiting it to 25, or so, let us set out some categories for eligibility for enterprise zones, and then anybody that qualifies should be able to get it. I am not going to vote for a bill that just gives enterprise zones to help Los Angeles, Chicago, or San Francisco. It will have to be made available to Greenville, MS, Clarksdale, MS, Biloxi, MS, and places in Nevada. All across America—they have to have a shot at it.

Americans would have family savings incentives and home buyer deals to generate real economic growth. Americans would be allowed to choose the best schools for their children, they would have reduced domestic oil consumption, and they would not be so dependent on foreign imported oil. There would be an opportunity for the line-item veto, just as 43 State Governors have that opportunity. We would have improved delivery and efficiency of health care. Americans would have market-type incentives to provide solutions to problems and not always resort to litigation.

Americans would have stimulated trade with our other American trading partners and would produce 20,000 new jobs with every $1 billion in exports.

Let me just conclude, Mr. President. President Bush has a domestic policy, but the Congress will not act on it. In my part of the country, we have a lot of sayings, or cliches, I guess, but one that I have always liked is this: Mr. President, "This dog won't hunt." I used to go fox hunting with my grandfather. If you had a hound that would not hunt the fox, you penned him up, and you made a change. This Congress will not hunt. The American people need to know where the blame should go, and it should go on the Democratic Congress and the lack of leadership and the failure to pass these initiatives.

Mr. President, I yield the floor.

REPEAL OF LUXURY TAX ON BOATS

Mr. KASTEN. Mr. President, I applaud last night's approval by the Finance Committee of legislation containing repeal of the 10-percent excise tax on boats.

The so-called luxury excise tax completely backfired. Because of this tax over 19,000 boat workers lost their jobs, many of them in Wisconsin. I voted against the tax in 1990 when it was enacted, and I have been leading the fight to repeal it ever since. This tax ranks as one of the most foolish actions taken by Congress in many years.

Although Congress has chosen to delay repeal of this tax for nearly 2 years, victory is now at hand. I urge the full Senate to swiftly approve repeal so that we can move on to conference and the President's signature before the August recess.

The boating industry is extremely important to Wisconsin. We have 180 marine manufacturers, 735 marine dealers, and over 480,000 boatowners.

I have been working with and I have toured boat builders in Oconto, Pulaski, Strugeon Bay, and Milwaukee.

I saw first hand the extraordinary damage that this tax was doing to one of our Nation's finest manufacturing industries. In 1990—before the luxury tax was imposed, Cruisers Inc., employed 500 people in Oconto. One year later after the tax, only 170 people were employed.

As I met with boat workers they shared with me their intense frustration with Congress for imposing a tax that had jeopardized so many of their jobs.

And it is not just those who work for this industry that are hurt. The tax base of both Oconto and Pulaski has been severely impacted as dozens of small businesses in these communities have suffered the ripple effect of job losses in the boat building plants.

Last September, following my tour of boat manufacturers, I chaired a Small Business Committee hearing to examine the impact of the luxury tax on boats. Several Wisconsin witnesses testified. On September 17, I introduced Senate Resolution 181 calling for the repeal of the excise tax on boats.

On November 21, the Senate overwhelmingly approved the resolution by a rollcall vote of 82–14.

This vote was the catalyst that put the Senate firmly on the road to repeal. And I am proud to have fought to save these middle-class jobs in Pulaski, Oconto, Sturgeon Bay, and other boatbuilding communities throughout Wisconsin.

One of the greatest ironies of this tax is the fact that it is costing the Government money. While the Congressional Joint Committee on Taxation initially claimed the tax would raise money, a study by staff on the Joint Economic Committee showed that when job loss is factored in, the tax is actually a significant drain on the Treasury.

While the tax brought in $7.3 million in 1991, $16.1 million was lost in lower tax payments from workers who lost their jobs because of the tax, and an additional $2.1 million in unemployment payments from the Government were necessitated. The net effect was therefore a loss of nearly $11 million in tax revenue.

The luxury tax never harmed the rich, they just bought other products. The workers who build the boats are the ones who have paid this tax; they paid for it with their jobs.

Since the tax took effect at the start of 1991 there has been an extraordinary 70-percent decline in the sale of boats subject to the tax. This decline is continuing and every day that Congress fails to approve final repeal ensures further damage and job loss.

It is critical that the tax bill be acted on next week and sent to the President. The boat workers of Wisconsin and around this country are sick and tired of the inaction of Congress. I ask my colleagues to join with me in working to ensure that the job gets done now.

AN APPEAL TO HUD

Mr. DIXON. Mr. President, I call to the attention of the Senate an article, "Regents Park: HUD's Towering Mess," which appeared in the Chicago Tribune on July 27, 1992. I also call the article to the attention of the Secretary of the Department of Housing and Urban Development, Jack Kemp, and appeal to him to revisit this issue.

Regents Park is a 1,000-apartment complex in the city of Chicago. It has the enthusiastic support of the Hyde Park community, which includes the University of Chicago, and the support of the mayor of Chicago.

Unfortunately, Regents Park is entangled in a dispute between its owner, who has turned this once troubled development around, and HUD, whose officials have reneged on its agreement with the Regents Park owner to revise the HUD-insured mortgages.

Mr. President, the issues surrounding HUD and Regents Park were first called to my attention as far back as 1986. I am particularly concerned and frustrated that those same issues continue to be unresolved today.

Unless this towering mess of HUD's is resolved soon, a well-run housing complex in my State is headed for disaster. This would adversely impact the Hyde Park community, the University of Chicago community, the city of Chicago, and many of my constituents.

Mr. President, I ask that the text of the article to which I have referred be printed at this point in the RECORD.

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

REGENTS PARK: HUD'S TOWERING MESS

(By R.C. Longworth)

Bruce Clinton knew Regents Park was a disaster the first time he saw it.

"Turkeys," Clinton says of the duplex's two huge buildings. "I drove down to Hyde Park and looked at them and thought, 'This is just like Cabrini-Green.' Clothes hung out of the windows. I could see the red rust down the concrete—and this was on a new building."

"While I watched, a chunk of concrete fell off one corner and smashed into the street. There were a dozen kids playing football in the front drive. That concrete fell near them, and they didn't even bat an eye."

This was in 1975. In the 17 years since, a story has evolved of a skilled and stubborn property manager who rescued a rotting de-

velopment, a university that backed him, a Chicago neighborhood that desperately needs him to succeed, and a federal government that seems determined to foil them all.

Foot-dragging and political timidity within the Department of Housing and Urban Development, apparently fueled by an old vendetta, are threatening to force Regents Park back into foreclosure, Clinton into bankruptcy, and a prime corner of Hyde Park into a slum.

"I'm very disgusted," said Mayor Richard Daley, who has made three trips to Washington to lobby Secretary Jack Kemp to end HUD's war with Clinton. "Regents Park . . . is a success story, and success stories are very few in HUD's history."

Despite Daley's interventions, HUD has not budged, and the saga of Regents Park remains a case study of government in gridlock.

Clinton had no idea of what lay ahead when he first saw the crumbling buildings.

The apartments, originally built by a Chicago developer as a tax writeoff, were less than half filled. Barely three years after the first building went up in the complex at 5050 S. Lake Shore Drive, concrete peeled off and rain poured through the windo:7 jambs. Prostitution and drug dealing were rife.

The two-building complex, then called Chicago Beach Towers, had gone bankrupt. The buildings, 36 and 35 stores high and holding 1,038 apartments, were the biggest structures in Hyde Park. The University of Chicago, Hyde Park's powerful anchor, was terrified that the blight would spread and drag the fragile neighborhood down to the level of surrounding ghettos. It wanted the whole thing torn down.

But HUD has insured the $26 million mortgage and stood to lose it all. It desperately wanted someone to take over the complex and turn it around.

It was a long shot. But if Beach Towers could be saved, the government would sell it to the savior. This would give the new owner control of a potentially lucrative complex overlooking Lake Michigan, with a guaranteed stream of tenants from the university.

Clinton, who specializes in running big apartment buildings, took over management of the bankrupt buildings. He renamed them Regents Park, cleaned them, added a swimming pool and other amenities, kicked out the worst tenants and, using his own money, turned an eyesore into an ornament.

Almost evenly split between black and white, the current tenants range from graduate students to senior citizens. More than half are connected with the university, including doctors from the university hospitals. A two-bedroom apartment rents for about $1,000 a month.

Was HUD grateful? Not that you'd notice.

Ten years after HUD promised to negotiate a new mortgage that would let Clinton make a profit, the promise remains unkept. Instead, HUD insists that Clinton take over a mortgage whose debt has grown to twice the buildings' value because of years of insufficient interest payments.

At least 10 potential agreements have been frustrated by last-minute HUD demands, and the department and Clinton are locked in a lawsuit over whether HUD even has to negotiate a new mortgage.

Although Clinton owns the buildings, he is getting nothing from them but a management fee because HUD has refused the new mortgage and has kept the case tied up in court. In other words, Clinton has all the obligations and none of the benefits of ownership.

Even some past and present HUD officials have argued that Clinton is right and the department is wrong. One of those officials in the Chicago office found himself summarily transferred to Detroit 17 days after he backed Clinton in a dispute with a HUD bureaucrat in Washington.

Meanwhile, Clinton can't afford to make the long-term repairs the complex needs. Tenancy at Regents Park, once at 98 percent, is about 85 percent and falling.

The university, terrified of a new threat to Hyde Park, is pulling every political string it can. Yet agreement seems no closer. HUD, instead of rewarding the manager who saved their buildings, is talking about foreclosure again, leaving Clinton with a huge tax bill and possible bankruptcy.

This is a problem for Clinton. It is a bigger problem for Hyde Park.

"That's a part of Hyde Park where a lot of people live," said University of Chicago law professor Douglas Bair, a Clinton supporter. "It's one of the anchors of the neighborhood. If it goes to hell, it makes Hyde Park an even chancier place to live.

"It's a complete scandal."

What's going on? HUD refused to comment, but to Daley, who attributes many of Chicago's problems to the federal government's inattention to urban concerns, the case of Regents Park is a classic example.

"HUD has had so many scandals in its past that it's afraid to come to a decision," the mayor said. "This shows the paralysis of the federal bureaucracy."

To most others, including Clinton, the problem is a "vendetta" against him by HUD bureaucrats he has crossed.

By his own admission, Clinton, a bearded and burly 57-year-old, is a combative and inflexible man who suffers bureaucrats badly.

Clinton has filed suit against HUD bureaucrats. At one point, he said, he was accused by his chief antagonist, former HUD deputy secretary Thomas Demery, of trying to delay Senate confirmation of his appointment.

"I don't recall" the details of that incident, Demery says.

Those personal battles may have created what University of Chicago Vice President Jonathan Kleinbard calls "a vindictive witchhunt" against Clinton.

To John Waner, former head of the HUD regional office in Chicago and the man who persuaded Clinton to take on Regents Park, it's pure Chicago politics. Other developers are waiting to take over when Clinton falters.

"Nothing ever happens in Chicago—everything is brought about," said the crusty Waner, 78. "Something is holding it up. It's quite obvious that some interests in town are looking to acquire it.

"I think Jack Kemp is one hell of a guy, but he depends on a lot of bureaucrats who all came out of the private sector, and they got their own friends. After this [Regents Park] became viable, everybody had their eyes on it."

Complicating the case are the HUD scandals during the Reagan administration that have tarnished Clinton's friends and foes.

Demery and one of Clinton's supporters, Deborah Gore Dean, former executive assistant to the HUD secretary, are under indictment for conspiracy in connection with influence peddling within the department. And one of Clinton's pet documents is a letter of praise from Dean's boss, former HUD Secretary Samuel R. Pierce Jr., himself disgraced by the scandals.

"What do you do if everybody you're dealing with in government is crooked?" Baird asked.

Because of the earlier bankruptcy, Regents Park is so deeply in debt that HUD will never get all its money back. But Clinton said he thinks the HUD administration, made gunshy by the scandals, is too frightened of writing off any debt to make a deal with him.

"I'm not accusing them of being corrupt," Clinton said. "This current bunch has a different agenda, which is extreme political sensitivity."

"On the merits," said Frank Kruesi, Daley's policy adviser, "there's no reason he should be getting jerked around the way he has."

Even Clinton says Regents Park never should have been built.

Much too big for its site, it was built in 1972–74 by Chicago developer and mortgage broker Paul Reynolds, backed by investors who took advantage of tax writeoffs to make a quick killing. HUD got into the act when the Federal Housing Administration insured the mortgage from LaSalle National Bank.

"The thing was due to fail from the day they stuck the first spade into the ground," Clinton said. "The commercial lender must have known this, but it didn't care so long as there was FHA insurance. Everybody got fat from the deal."

Clinton called the construction "the worst I've seen in my life."

The builders, in a rush, diluted the concrete, which crumbled, exposing steel connecting rods to the rain. The rods began rotting the building from inside, according to court records.

The university stopped housing students or faculty in the complex. Occupancy never reached 50 percent.

By 1975, the complex was in default and HUD, guarantor of the loan, held the bag. Clinton, an experienced manager of Florida property, had his eye on another bankrupt building in Chicago, a basically sound property on the North Side that also had been insured by HUD. But Waner told him he could have it only if he also took on the Hyde park properties.

Clinton looked at the two buildings, swallowed hard, and accepted.

Within a year, the North Side building—now Park Place, at 655 Irving Park Rd.—was restored to prosperity and Clinton made a bid to buy it, submitting what he thought was the highest bid. The building went instead, he said, to a company in which one of the partners was a son-in-law of Mayor Richard J. Daley.

Clinton exploded.

"I thought there's a fundamental injustice not to sell the building to the highest bidder who happened to be the guy who'd turned it around," he said.

Clinton sued. The court battle lasted two years. At the end, he sued two HUD bureaucrats by name. Neither is involved in Clinton's current troubles, but both he and his supporters believe the suits incurred the everlasting enmity of HUD.

"There are people who believe now that this was one of the monumentally bad business decisions of all time and the source of all my problems," said Clinton, who lost the suits and the North Side building.

By this time, Clinton had stabilized Regents Park. He asked HUD to let him buy the complex. HUD, angered by the suits, tried to foreclose instead. A federal court blocked the foreclosure and opened the buildings to bidding, which Clinton won.

In January 1981, Clinton had title to the buildings. But his battle had just begun. HUD still held the mortgage. The debt,

counting the original default, was $36 million, far more than the buildings were worth or that Clinton could pay. Yet HUD wanted to get as much of the taxpayers' money back as it could, though it has lost much more on many other foreclosed buildings, such as Chicago's Presidential Towers.

So a deal was struck in 1982. It was called a Provisional Workout Agreement, or PWA, and it worked like this:

Clinton promised a five-year rehab program, at his own expense, to end the window leakage, paint and coat the concrete, repair the heating, enlarge the lobby, and carry out 13 tasks in all. All rents were to go to HUD. Clinton would get a management fee equal to 4.75 percent of the rents.

HUD promised that once this was done, it would "agree to either capitalize the then existing interest arrearages or negotiate further workout arrangements."

What this implied was that HUD would rewrite the mortgage on Regents Park. The property carried so much debt that, without a rewritten mortgage, Clinton would face a mortgage far higher than the building's true worth. A mortgage reflecting the true value would enable him to run it as an ordinary business.

Clinton complained that this promise was too vague. HUD officials told him this was as specific as HUD got. But in negotiations in the department's Chicago office, HUD's regional housing director, James T. Albrecht, and its regional counsel, Richard J. Flando, promised Clinton verbally that the department would "deal in good faith and enter into a realistic, commercially reasonable, financially viable, long-term restructuring of the mortgage."

All this is confirmed in affidavits filed by Flando and Albrecht, praising Clinton and condemning HUD's behavior.

Flando said he and Albrecht promised Clinton that the eventual deal would guarantee him "a reasonable return." The whole thing, Flando said, "was highly advantageous to HUD" and HUD's stonewalling "violates HUD's express commitments to Clinton."

Albrecht confirms Clinton's contention that Clinton went along with the PWA only "because of my assurances to him."

This is still the key argument. Clinton insists that HUD backed its vague written commitment with a strong verbal promise and then broke it. HUD said the original PWA, which was kept vague at HUD's insistence, is too vague to enforce. The current trial is the third attempt to settle the issue in court.

Clinton, assuming he had a deal, went to work and finished the 13 tasks in less than three years, spending $1.8 million. He has since added a swimming pool with snack bar, a grocery, a security system, workout rooms, a children's playground, and even a 58,000-square-foot park, complete with duck ponds, on the roof of the parking garage between the two buildings.

"All this with no money and no help and at no cost to the government," Clinton said.

In 1986, Clinton came back to HUD to get his new mortgage. The buildings, worth only $12 million when Clinton took them over, were last appraised in 1987 at $23.3 million. At the time, unpaid interest had raised the debt to $36 million. Since then Clinton, under agreement with HUD, has paid the government only two-thirds of the interest, and this has raised the indebtedness on Regents Park to $46 million, or roughly twice what it's worth.

Clinton insisted on a mortgage based on Regents Park's true value. As he noted, anyone would be crazy to buy the buildings for twice what they're worth. At one point, HUD agreed with this but then reneged and said that a $23 million mortgage would amount to "debt forgiveness" that would cost the government some $23 million.

Technically, this is true. But Clinton argues that any loss is HUD's own fault, for guaranteeing the mortgage in the first place.

Besides, according to Waner, HUD never "expected to recover its investment in full" because of the debt backlogged from the original default.

"In 1986, we made a proposal, and HUD turned it down flat," Clinton said. "They threw a sea of auditors at us. In 1986 to '88, we poured hundreds of thousands of dollars into studies and reports only to be told, 'No deal.'"

During this time, Demery was nominated to be assistant HUD secretary. Sen. Alan Dixon (D-Ill.), who had earlier lobbied HUD on behalf of Regents Park, was a member of the Senate Housing Committee and told Demery that he expected a fair and reasonable deal for the project.

Demery agreed, but Clinton says Demery later "flew into a rage and took the position that I was trying to postpone his confirmation. That's preposterous. But Demery told people that he was out to get me."

Clinton and officials from the city and the University of Chicago blame Demery for stalling action on Regents Park. Since Demery's indictment, they say, the stalling has been led by a Demery protége, Donald Kaplan, until recently HUD's director of multifamily housing. Kaplan is a former Chicago HUD official whom Demery brought to Washington.

Over the last six years, according to Clinton, the University of Chicago and others involved in the case, one proposal after another has been shot down.

Demery, in a telephone interview, denied he blocked an agreement and said he "couldn't begin to answer" questions about Regents Park's problems.

"I never told anybody not to go forward," he said. "If the Secretary wanted to resolve something, they'd resolve it.

In 1987, Pierce wrote Dixon acknowledging that Clinton had fulfilled his obligations under the PWA and saying that HUD "accepts the owner's [Clinton's] proposal for restructing the mortgage."

But nothing happened.

Kleinbard said that later in 1987, the then-assistant HUD secretary, Hunter Cushing, told him that the university should "relax and let the building go to foreclosure" and they buy it.

"I was shocked and offended," Kleinbard said in an affidavit. He said Cushing's comment was part of the evidence that "convinced me that HUD never had any intention to enter into an agreement with Clinton, no matter how much Clinton was willing to cooperate."

In 1991, Kaplan asked Robert J. Turner, director of housing management in HUD's Chicago office, to analyze Clinton's finances and demands. Turner, a 12-year HUD veteran in Chicago, said he concluded that "the Clinton Company is an excellent manager which turned the project around physically and socially."

Kaplan, unsatisfied, asked for a second and then a third analysis. Turner, who calls Clinton's turnaround of Regents Park "a miracle," confirmed his original findings. Then Kaplan phoned Turner and had the following conversation, reported by a HUD source and confirmed by Turner.

Kaplan: "I want this done in a professional manner."

Turner. "That's exactly the way we did it—professionally and with integrity."

Kaplan: "Look, Bob, you know what we want."

Turner. "You're damned right I know what you want, and we're not going to do it."

Seventeen days later, Turner was transferred to Detroit, to a job that he says has less authority than his job here.

"No one ever told me why I was being transferred," Turner said.

Clinton said that in February 1991, Ronald Rosenfeld, then deputy assistant secretary at HUD, offered him a deal that would have enabled him to make a quick profit by ignoring long-term improvements: The budget for capital repairs would go into Clinton's pocket instead.

"It was a very tempting deal," Clinton said, "but no amount of money you could pay me would lead me to tell the university that I'd taken all this over these years and then turned around and sold out the community."

The comment illustrates Clinton's mixed motives. A businessman, he craves profit. But he also feels a debt to Hyde Park. And he is a stubborn man who is determined to win.

The next month, according to a letter from Daley to Kemp, Rosenfeld told Daley "that a change of ownership, with adequate financial support from HUD, would be feasible." Daley replied that any change, with the delays and confusion involved, would be "unnecessary and dangerous" and urged Kemp to settle with Clinton instead.

Earlier this year, another negotiation failed at the last moment when HUD made seven last-minute demands and Clinton, under urging by the university and his attorney, William J. Kunkle Jr., capitulated on them all.

But then HUD, having won all its demands, turned down the entire deal, according to Clinton and the university.

Rosenfeld, now deputy assistant treasury secretary, denied having the conversations with Clinton and Kunkle and said he "completely refutes" allegations of bad blood between Clinton and HUD.

Kleinbard said was phoned by HUD attorney Clarence "Bud" Albright, who told him he had advised Kemp and Assistant Secretary Arthur Hill to settle with Clinton "under terms that Clinton has now agreed to."

But Hill later told Kleinbard that HUD lawyers were advising the department to fight it out in court. Kleinbard replied that Albright had told him just the opposite. Hill, according to Kleinbard, hung up on him.

Albright and Hill refused to comment.

Meanwhile, Clinton said, the uncertainty about the future of Regents Park "keeps us from mounting a consistent (repair) program."

The buildings are still making money, he said, but "we've spent considerably north of a million bucks [in legal fees] just to get these guys to live up to their promises."

Demery accuses Clinton of hanging on not out of principle but because he faces a huge tax bill if he sells. Clinton's top aide, Barry Boggio, says Clinton would indeed be strapped, because HUD's refusal to rewrite the mortgage would make him liable for taxes for the total paper value—$46 million, including the buildings and the debt—of Regents Park.

In other words, HUD has driven Clinton to the point where he can't give up Regents Park without bankrupting himself.

"He has a real tar baby on his hands," Baird said.

If HUD forces Clinton out, "Regents Park is going to go to hell in a haywagon," the U. of C. law professor said. "But if he loses, he's not going to roll over and play dead. He's not going to give it up without a fight."

Clinton, who has stopped most of his other projects to concentrate on Regents Park, agrees, even though another fight could doom the Hyde Park development.

"I'll never quit," he said. "They've got to carry me out of here."

PUBLIC HEALTH SERVICE ACT TECHNICAL AMENDMENTS ACT

Mr. HATCH. Mr. President, the ADAMHA Reorganization Act (Public Law 102-321), signed into law by President Bush on July 10, 1992, moves our Nation aggressively forward with new and expanded initiatives for mental health and substance abuse research and services.

This important public law provides for the merger of outstanding mental health and substance abuse research; that is, the programs conducted by the National Institute of Mental Health, the National Institute of Drug Abuse, and the National Institute of Alcohol Abuse and Alcoholism, with the stellar scientific research of the National Institutes of Health. At the same time, this law increases the focus and quality of services for Americans who suffer from mental illnesses or addictions to alcohol and other drugs by creating a new agency responsible for these programs, the Substance Abuse and Mental Health Services Administration.

This law also brings about more targeted and equitable distribution of funds through separate block grants for mental health and substance abuse and through a variety of specifically targeted funding programs for populations with special needs, including pregnant and postpartum women, mentally disturbed children, and the children of substance abusers.

I am happy to join my distinguished colleague, Senator EDWARD M. KENNEDY, in sponsoring this Technical Amendments Act. This bill will correct various technical errors or omissions and will clarify and improve this vital public law, one of the most important legislative accomplishments of this session of Congress.

Thank you, Mr. President.

PROHIBITING SEXUAL DISCRIMINATION BY ARMED FORCES

Mr. METZENBAUM. Mr. President, in behalf of myself and Senators KENNEDY, CRANSTON, HARKIN, WIRTH, ADAMS, KERRY of Massachusetts, AKAKA, and WELLSTONE I, on the day before yesterday, introduced legislation to overturn the Pentagon's ban on homosexuals serving in the military.

The bill that we introduced S. 3084, is identical to the measure introduced in the House by Representative SCHROEDER and 70 of her colleagues.

The Pentagon's prohibition of gay men and lesbians serving in the military is as senseless and cruel today as it was when it was first conceived 50 years ago.

It is Government-sanctioned discrimination that has no place in our society.

It is discrimination against a distinct group of individuals who repeatedly and throughout history have shown that they are every bit as capable, hardworking, brave and patriotic as their heterosexual counterparts.

The fact is, the performance of homosexuals in the military has been superb.

Last month I stood here on the Senate floor, and spoke about the incredible cost of the military's prejudice against homosexuals.

I mentioned the case of Lt. Tracy Thorne, the 25-year-old navigator-bombardier who finished first in his flight training classes, received top honors from the Navy and then was busted out of the service for being gay.

Did he do anything wrong? Did he sexually assault or harass somebody?

No. He merely said he was gay.

Forget the fact that the U.S. taxpayers paid $2 million to train him to be a naval aviator.

Last month the Army dismissed Col. Margarethe Cammermeyer, one of the finest nurses in the military.

Colonel Cammermeyer served 14 months in Vietnam. She won a Bronze Star, and was named the Veterans' Administration Nurse of the Year in 1985.

Her only crime was to acknowledge during an interview that she is a lesbian.

Lieutenant Thorne and Colonel Cammermeyer are just the most recent casualties of a policy that has destroyed thousands of careers and lives.

The Pentagon's argument used to be that you could not have homosexuals in the military because they presented a security risk that they were vulnerable to blackmail.

Two separate studies of the issue the Navy's 1957 Crittendon report and DOD's 1991 Perserec report debunked that old canard.

Neither study found any statistical data that homosexuals present a security risk.

Now the Pentagon has a new rationale to use as a basis for discriminating against homosexuals.

Now the military says simply that "homosexuality is incompatible with military service."

And that homosexuals "adversely affect the ability of the military services to maintain discipline, good order, and morale. * * *"

How do they make those claims? Where is the evidence?

The fact is, there is not any evidence.

Defense officials freely admit that the policy is not based on scientific or empirical data.

They say it is based on "considered, professional military judgment based on years of experience."

I call it baseless prejudice founded on fears and ignorance.

How does the military explain the tens of thousands of homosexuals in the military right now excelling in their jobs.

They are the pilots, the ships gunners, the foot soldiers. Gay people serve in the military, just like they serve in every other Government agency and walk of life. They do their jobs just like everyone else.

In fact, the Pentagon has never contended that homosexuals do not perform as well on the job as heterosexuals.

In fact, the records of the people they bust out of the service speak for themselves. In nearly every case, their performance records are above average.

Mr. President, the American public does not support the Pentagon's policy of discrimination against homosexuals.

According to a Penn and Schoen 1991 public opinion poll, 8 in 10 Americans believe that homosexuals should not be discharged from the military solely because of their sexual orientation.

Most people do not realize how much it costs the taxpayers to investigate and discharge homosexuals from the military.

According to a brand new General Accounting Office report, between 1980 and 1990, 17,000 service men and women were discharged because of homosexuality.

Just the recruiting and training costs associated with the replacement of these personnel totals $28,226 for each enlisted person and $120,772 for each officer.

That totals approximately $491 million over the last 10 years, not counting the investigative, legal and administrative costs associated with the actual discharge proceedings.

There is another grim aspect of this issue that I wish to highlight, Mr. President.

That is the fact that the ban on gays is applied much more ruthlessly against some groups than others specifically against women and against enlisted personnel.

According to the GAO, women constituted 23 percent of all discharges for homosexuality, yet they represent just 10 percent of all military personnel.

Officers constituted 14 percent of all those serving in the military, yet they represented just 1 percent of those discharged for homosexuality.

With respect to women, it is simply sexual harassment in another form.

Servicewomen who refuse romantic or sexual advances of their commanders or colleagues find themselves the subject of investigations into their sexuality.

It is outrageous.

Let us be frank, Mr. President.

This is a political issue for the administration.

This administration is too afraid of the far right to change its anti-gay policy—even though it knows it is wrong.

This administration pays constant homage to a group of small narrow minded people who insist that everyone must look, think and live his or her life as they do.

It is the same mindset that resulted in the exclusion of millions of black Americans, and millions of women and other minorities from serving their country in the military for so many years.

In the 1940's, conservatives used all the same arguments—they said that admitting black Americans into the military would be bad for morale—that whites would not serve alongside blacks.

Compare this 1941 Navy memorandum outlining the basis of the military's exclusion of African-Americans with the Pentagon's exclusion of homosexuals today.

The close and intimate conditions of life aboard ship, the necessity for the highest possible degree of unity and esprit-de-corps; the requirement of morale all these demand that nothing be done which may adversely affect the situation. Past experience has shown irrefutably that the enlistment of negroes (other than for mess attendants) leads to disruptive and undermining conditions.

Here are excerpts from the anti-gay policy today:

The presence of—homosexuals—adversely affects the ability * * * to maintain discipline, good order * * *—and—to facilitate assignment and worldwide deployment of members who frequently must live and work under close conditions affording minimal privacy. * * *

The arguments are all the same. Only the players have changed.

President Truman knew the Pentagon was wrong. He integrated the military, and our Armed Forces took the lead in welcoming minorities and promoting equal opportunity ever since—save for one small exception—homosexuals.

So let us not obfuscate the issue by talking about discipline and morale.

Nothing is better for morale than a military that knows how to get the job done. What is important when the bullets are flying is whether the soldier or sailor or officer is brave, smart, and well trained. Heroes come from every race, gender, and sexual orientation.

Look at the experience of our allies. Denmark, France, Germany, Italy, Japan, the Netherlands, Norway all permit homosexuals to serve in the military.

Mr. President, it is time to put an end to the Pentagon's discrimination against gay men and lesbians.

If President Bush is unable to do the right thing, then it is up to the Congress.

I urge my colleagues to support this effort.

SAM HULETT

Mr. SIMON. Mr. President, yesterday morning I read in The Washington Post the very moving story of the funeral of 6-year-old Sam Hulett in Springfield, IL. Sam was the son of Tim Hulett, a native of Springfield, a former Chicago White Sox player, and today an infielder for the Baltimore Orioles.

Just a few months ago Sam completed kindergarten. Last week he was struck down when he ran into the path of a car while walking home with his brothers from a playground in suburban Baltimore.

According to the National Highway Traffic Safety Administration, what happened to young Sam Hulett last week happened to sixty 6-year-olds last year.

Mr. President, I am sure we would all agree that there is no event more unsettling and difficult to reduce to mere words than the death of a child. If the Hulett family's tragedy can have any benefit it will be to help remind us that the exuberance and innocence of childhood are ever so fragile and that we must do everything we can to prevent injury and death from pedestrian motor vehicle crashes.

We must make our streets and crosswalks as safe as they can be. We must teach and reteach pedestrian safety. We must tune up our own senses behind the wheel and be on the lookout for the unexpected and unwary pedestrian.

In the meantime, our thoughts, and the thoughts of Springfield, baseball fans, and parents everywhere are with the Hulett family in the weeks and months ahead.

I ask that the article from the Washington Post "Mourners Remember Sam Hulett's Sweetness" be printed in full in the RECORD.

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

MOURNERS REMEMBER SAM HULETT'S SWEETNESS

(By Stephen Beaven)

SPRINGFIELD, IL, July 28.—The men and women who filled Calvary Temple this afternoon wore black and gray. The girls wore flower print dresses, and the boys' hair was slicked back. Except for a few whispers, everyone was silent.

And for a somber half-hour or so before 6-year-old Sam Hulett's funeral, about 150 people listened to the catchy Christian pop music of Michael W. Smith. The synthesizers were sweet, and the bass lines were snappy—not the sort of music usually associated with funerals.

But it was Sam's favorite tape, the Rev. Mark Johnson told the mourners. That made it fitting for a boy described today as sweet and smart and devoted to his church.

Sam, the son of Baltimore Orioles infielder Tim Hulett, a Springfield native, died Thursday, a day after he ran into the path of a car near the family's summer home in Cockeysville, Md. Sam was returning from a playground with his three brothers when he was hit.

"He had a very tender heart about [the word] of God," said Kathie Ames, Sam's kindergarten teacher at Calvary Academy during the past school year. "If you don't write anything else about him, I want people to know he had a tender heart toward God."

Sam was obedient and close to his family, Ames said. All the Hulett boys, who range in age from 4 to 9 years old, missed their father during spring training, she said. This year, Sam was especially anxious as Tim fought for a spot on the Orioles roster.

"He'd say, 'We have to pray for Dad and make sure he made the team,'" Ames recalled. When she asked when the family would know if Tim had made the team, Sam always answered "next Thursday."

"I think that was his stock answer," Ames said.

Family and friends, including pitcher Rick Sutcliffe—who represented the Orioles players—paid their respects at Calvary Temple, the church Tim and Linda Hulett and their boys attend in the offseason. Before the funeral, Tim Hulett and Sutcliffe embraced near the altar.

In his eulogy, the Rev. Johnson preached a message of hope in the face of heartache. He called on mourners to reach down for their faith in God, even if they don't understand why Sam died.

Christ was sent to Earth, Johnson said, "so that at an hour like this we can have hope. So that we can understand that . . . it's not the end when we come to a moment like this."

He also assured the congregation that Sam "had begun a new life."

"There's not a word to be said to take way the pain." Johnson said, adding that "faith has its most meaning when there's nothing else to stand on."

After the funeral, a procession of cars several blocks long wound west out of Springfield on country roads, past cornfields and beanfields and grain silos.

A brief graveside service was held in the Old Salem Cemetery, a 157-year-old burial ground surrounded by cornfields and pasture land. There, under a tarp and a sweltering sun, the Hulett family thanked their friends for their support and invited them back to the church for another service.

Like the Huletts, George Staab and family attend Calvary Temple. As cars pulled out of the cemetery, Staab, whose funeral home handled the arrangements, called Sam "a real good boy.

"There's no replacing him. Real sweet boy."

INJUSTICE IN THE FEDERAL COURTS OF APPEALS

Mr. KENNEDY. Mr. President, the tragic events in Los Angeles this past May reminded all of us of the high price we pay when any part of the population loses confidence in the fundamental fairness of society. One of the most destructive factors in shaking public confidence is the perception that the Federal judiciary is a closed club, where racial minorities are now welcome.

The Federal courts of appeals have the last word in the vast majority of cases in the Federal system. As such, they wield vast authority in hundreds of decisions each year interpreting the Constitution and many Federal laws. In a compelling op-editorial in yesterday's New York Times, Judge Leon

Higginbotham, a highly respected senior judge and former chief judge of the U.S. Court of Appeals for the Third Circuit, criticized the extraordinarily poor record of President Reagan and President Bush in appointing African-Americans to the Federal appellate courts. Only 2 of the 115 persons nominated to these over the past 12 years are African-Americans. By contrast, President Carter nominated nine African-Americans to the courts of appeals during his 4 years in office.

Judge Higginbotham's article is a searing indictment of the record of the past two administrations in making judicial nominations fairly. I believe that all of us in the Senate will find it of interest, and I ask unanimous consent that it may be printed in the RECORD.

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

[From the New York Times, July 29, 1992]

THE CASE OF THE MISSING BLACK JUDGES

(By A. Leon Higginbotham)

PHILADELPHIA.—Suppose someone wanted to steal back past achievements, rein in present gains and cut off future expectations among African-Americans about participation in the judicial process. That person would have found it difficult to devise a better plan than nominating Clarence Thomas to the Supreme Court while decreasing the number of African-American judges on the Federal bench.

The confirmation of Clarence Thomas forced the nation to pay attention to many issues, from the Senate's role in confirming Supreme Court Justices to sexual harassment of women in the workplace. But the Thomas confirmation proceedings diverted our attention from one vital issue: Thanks to Presidents Ronald Reagan and George Bush, African-American judges on the United States Courts of Appeals have been turned into an endangered species and are now on the edge of extinction.

For more than 99 percent of Federal litigants, the 13 Courts of Appeals are effectively the courts of last resort. Last term, the Supreme Court heard slightly more than 100 cases. In the same period, the Courts of Appeals decided 41,000 cases; in addition, they had 32,000 cases pending on their dockets at the end of the year.

For 145 years, the Federal courts in the continental United States—the Supreme Court, Courts of Appeals and District Courts—were entirely made up of white males. The first woman, Florence Allen, was appointed by Franklin D. Roosevelt, in 1934, and the first African-American, William H. Hastie, in 1949, by Harry S. Truman.

During his eight years in office, Dwight D. Eisenhower, however, did not appoint a single African-American to any Federal court in the continental U.S. As for the Courts of Appeals, John F. Kennedy appointed one African-American, Thurgood Marshall, and Lyndon B. Johnson appointed two, Spottswood W. Robinson 3d and Wade H. McCree Jr. Neither Richard Nixon nor Gerald R. Ford appointed any African-Americans to the Courts of Appeals.

Presidents Nixon and Ford did appoint a total of nine African-Americans to the District Courts. President Reagan appointed six, and President Bush has appointed nine. By contrast, Jimmy Carter appointed 28 to these same courts. He appointed more African-Americans in four years than Presidents Nixon, Ford, Reagan and Bush combined appointed in the course of nearly 20 years.

President Carter also took significant steps in his appointments to the Courts of Appeals. When he became President in 1977, there were only two African-American judges on the Courts of Appeals. In four years in office, he appointed nine, including the first African-American woman, Amalya L. Kearse. Their presence made the Federal judiciary far stronger that it otherwise would have been.

Moreover, to the extent that the appointment of judges is a barometer of a President's feelings about placing historically excluded groups in positions of power, Jimmy Carter showed that he had complete confidence in African-Americans.

President Reagan apparently felt otherwise and President Bush apparently does, too. On taking office, they both asserted that they wanted a far more "conservative" Federal court system. In that, they have succeeded admirably. But in the process they have turned the Courts of Appeals into what Judge Stephen Reinhardt of the Court of Appeals for the Ninth Circuit has called "a symbol of white power."

In eight years of office, out of a total of 83 appellate appointments, Ronald Reagan found only one African-American whom he deemed worthy of appointment, Lawrence W. Pierce. President Bush's record is just as abysmal. Of his 32 appointments to the Courts of Appeals, he also has been able to locate only one African-American he considered qualified to serve: Justice Clarence Thomas.

Since Justice Thomas moved from the Court of Appeals to the Supreme Court, no African-Americans appointed by President Bush remain on the Courts of Appeals. As Judge Reinhardt has said: "In President Bush's view, Clarence Thomas is apparently all there is out there. Clarence Thomas is black America to our President."

By 1993, six of the 10 African-Americans sitting on the Courts of Appeals will be eligible for retirement. As the African-American judges appointed by President Carter have retired, Presidents Reagan and Bush have replaced them largely with white judges in their 30's and early 40's. Why is it important for the Federal bench to be pluralistic? Pluralism, more often than not, creates a milieu in which the judiciary, the litigants—indeed, our democratic system—benefit from the experience of those whose backgrounds reflect the breadth of the American experience.

I do not want to be misunderstood. Pluralism does not mean that only a judge of the same race as a litigant will be able to adjudicate the case fairly. Rather, by creating a pluralistic court, we make sure judges will reflect a broad perspective. For example, speaking of Justice Thurgood Marshall, Justice Sandra Day O'Connor said: "At oral arguments and conference meetings, in opinions and dissents, Justice Marshall imparted not only his legal acumen but also his life experiences, pushing and prodding us to respond not only to the persuasiveness of legal argument but also to the power of moral truth."

Judicial pluralism is important for another reason. It is difficult to have a court that in the long run has the respect of most segments of the population if the court has no or minuscule pluralistic strands. Of course, pluralism does not absolutely and forever guarantee an effective and fair judiciary. Nothing really does. However, pluralism is a sine qua non in building a court that is both substantively excellent and respected by the general population. In other words, judicial pluralism breeds judicial legitimacy. Judicial homogeneity, by contrast, is more often than not a deterrent to, rather than a promoter of, equal justice for all.

Many Americans have rightly condemned South Africa's wretched system of apartheid. But we should also ask ourselves: How is it that in President F.W. de Klerk's less than three years in office, one of his 31 appointments to South Africa's courts is a black lawyer while of the 115 Bush and Reagan appointments to the Courts of Appeals in 12 years, only two have been African-American?

I am forced to conclude that the record of appointments of African-Americans to the Courts of Appeals during the past 12 years demonstrates that, by intentional Presidential action, African-American judges have been turned into an endangered species, soon to become extinct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. REID). Morning business is closed.

COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 776, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 776) to provide for improved energy efficiency.

The Senate resumed consideration of the bill.

Pending:

(1) Wellstone amendment No. 2789, to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

(2) Dodd amendment No. 2790 (to amendment No. 2789), in the nature of a substitute.

Mr. JOHNSTON. Mr. President, we are back at ground zero now. The difference between yesterday where we waited around some 3 hours or so on quorum calls, waiting for people to bring up their amendments, is that we have run out of time, and that people are not going to receive any more protection. We just cannot go on ad infinitum waiting for people to bring in their amendments.

We are particularly waiting for the Dodd-Gramm problem to be resolved. I tell those Senators that theirs is the pending amendment, and it will come up automatically for a vote—I guess, a voice vote—unless they are here to either oppose it or tell us what the status is. I have heard nothing about that status.

So I hope, Mr. President, that in the next 15 to 20 minutes, that we would have some word and, hopefully, have this bill passed that quickly, because we are ready for final passage. I know of no amendments that will actually require action, but we will soon find that out.

So I will tell Senators that we will put in a quorum call, and I hope that in the next 15 minutes we can get this bill resolved.

Mr. WALLOP. Mr. President, let me just echo the words of the Senator from Louisiana, and also inform him that Senator STEVENS is expected to be here to offer his amendment sometime between now and half past 10. He is on his way. Then we will get it started.

I share with him the hope that we can settle these outstanding amendments, either by vote or by acceptance, one way or the other, and get this bill to conference, where it belongs.

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. JOHNSTON. 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. JOHNSTON. Mr. President, there is a pending amendment, the Dodd-Wellstone amendment, and we are having trouble finding out whether the parties are for that, oppose it, intend to bring it up or intend to vote on it or intend to negotiate.

I would tell those Senators who have any interest in that matter unless they wish the managers to dispose of it as we would like, they should come and communicate with us. This bill is being held up by Senators who are presently incommunicado as far as we can tell. So unless they wish us to deal with it either by a motion to table or unanimous consent for time limitation or something like that, they should tell us what their intentions are.

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.

(The remarks of Mr. BOND pertaining to the introduction of S. 3099 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. BOND pertaining to the submission of S. Res. 327 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDING OFFICER. The Senator having suggested the absence of a quorum, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, I rise to speak on the current energy bill pending before the body.

I thank my colleagues on both sides of the aisle for the action taken last night, where two of my amendments were accepted.

The first amendment was an amendment requiring an analysis of the economic benefits associated with opening the Arctic National Wildlife Reserve to oil development.

The second was an amendment that would require an analysis of all projects nationwide that could aid the economy and produce jobs.

And, as a consequence of that comparison, Mr. President, at about the end of the first quarter of next year this body is going to have a base of information. It is going to be a base of information that I think will clearly show the tremendous impact on the economy that opening ANWR could provide to this Nation, not only in jobs but also as a significant contribution to offsetting the balance-of-payments deficit. One only has to look at the balance-of-payments deficit to recognize that two-thirds of our deficit in the balance of payments is the cost of importing oil.

The necessity of that continuing is, of course, dependent upon actions by this body and the House of Representatives relative to the authorization to initiate the authority for lease sales in domestic areas of identified petroleum resource ANWR certainly fits into that category.

So what we have done is set up a criterion that, as a consequence of the analysis, will show a comparison between identified economic activities associated with new jobs emerging from projects that are planned throughout the country, that identify over 2,500 new jobs, and a comparison on what development might mean with regard to the Arctic National Wildlife Refuge.

The stage is set, Mr. President, and my accompanying remarks are in support of a national energy strategy, which this Nation sorely needs. It is really time we wake up and smell the aroma of the coffee which surrounds us. The American people are screaming, and we are not hearing the message. You can hear it in the Congress. You can hear it in the headlines. You can watch it on the evening news. The American poeple are questioning the attainability of the American dream. They are concerned. They are scared. They are frightened. They are anxious.

They are concerned that our economy is sinking, that they will wake up without jobs, that our children will lack the opportunity to have challenges, to own their own homes; the recognition that many of our jobs are going overseas and that our politicians do not seem to care. They are concerned the Japanese and the Europeans are taking our jobs, buying our property, taking over our technology, outcompeting us in every industry that really matters, industries that were basically the center of American ingenuity.

The people are telling us, but we do not hear the message. Somehow we are not listening—listen or get out. That is the message. We hear it time and time again. Some suggest anything is better than what we have. We have all heard the anti-incumbency concerns expressed by the media.

This bill before us, this so-called comprehensive energy plan and the debate we are having, is exactly what many Americans are concerned about. And they are concerned that we do not get the point. We have before us a scaled-down bill. It is a worthwhile bill. But the bill itself avoids the major questions of reducing dependence on foreign sources for our oil. The reason, of course, for this dilemma is that we do not have the intestinal fortitude, the guts, to make tough decisions.

This bill has almost nothing in it to stimulate the domestic production of oil and gas. Why? This is the energy bill. It seems we would rather ram through the easy stuff and go home claiming victory. After the elections, well, maybe that is when we will talk about ANWR, that is when people will again talk about CARE standards. It is no wonder the American people are anxious, concerned, and discouraged.

Mr. President, let me tell you what I hear people saying. They are saying they want jobs. They want American jobs. They want an expansion of the economy. They are also saying no blood for oil. We went through that effort in the Persian Gulf. Make no mistake about why we were over there. We were over there to keep the flow of oil available to the Western world.

The American people are saying no more billion-dollar trade deficits. They are saying let us import less; let us produce more domestically. They are saying no more exporting of American jobs. Why are we sending our jobs overseas with our investment when we could be developing our own domestic energy resources in this country? What is Congress saying, Mr. President? Congress is saying we are not even going to have at this time an up/down vote on ANWR.

It is unfortunate we are not going to have this debate of the one issue which means 735,000 new jobs throughout America, the largest single jobs issue identified in the Nation at this time. This body is not even going to debate the merits. My colleagues on the other side of the aisle who have indicatd a support for ANWR say we simply can-

not address the issue at this time because of the political realities.

Mr. President, the political realities are very simple. The Democratic Presidential team does not support the opening of ANWR and the leasing thereof. The Vice Presidential candidate on the other side, my colleague and good friend, Senator GORE, not only opposes ANWR, but he proposes putting ANWR in a wilderness in perpetuity, which would foreclose this Nation from developing what has been identified as North America's largest potential oil reserve.

It is, indeed, unfortunate we are not going to discuss the fact that in May alone this Nation spent $4.1 billion on imported oil. We are not going to discuss the three-quarters of a million troops we sent to fight in the Persian Gulf to protect oil supplies when we could be producing oil here at home. It simply does not make sense.

The unfortunate part is that we cannot seem to overcome the environmental opposition. Where is American ingenuity? Where is American technology that has been able to meet the challenges ahead? Can we not encourage America's environmental community to come aboard, help us make ANWR development safer? Reduce the footprint? Reduce the impact on the environment by using new technology? Of course, we can. But for reasons unknown to me in exact terms, the environmental community has yet to come aboard and say let us make a contribution to America's energy independence by reducing dependence on imported oil and gas by developing ANWR. And let us do it better, let us do it with U.S. jobs, with U.S. ingenuity, with sound science as opposed to emotion that so often carries the day in this body. More often than not, individuals who make the most eloquent argument prevail on an emotional basis. Decisions are made that have no sound scientific basis.

Mr. President, the question of ANWR is not about Caribou, it is not about footprints in the wilderness, it is not about a 200-day supply of oil. It is about jobs. It is about creating jobs and keeping jobs in America. It is about stimulating the economy. It is about supplying ourselves with energy that we need so we do not have to fight wars against despots abroad. It is about wiping out half of our trade deficit.

Mr. President, Congress is going to pass this bill. I am going to support this bill. We are going to go home and declare some kind of a victory to our constituents, but what a hollow victory cry that will be.

Let me explain a little bit further on why this is going to be a hollow victory. While this body avoids meaningful legislation to encourage domestic oil exploration and development, let us look around the world and see what is happening. Oil imports are at their highest levels since 1978. We currently import nearly 7.5 million barrels of crude oil a day. It is the highest level of imports since the winter of 1978. Domestic production is decreasing steadily and has fallen to a low of 7.2 million barrels a day. That is what the level was in 1968. My State of Alaska provides 25 percent of America's domestic oil production, but it, too, is beginning to decline at nearly 10 percent a year.

What are we going to do in 5 years? What are we going to do in 9 years? We are going to be importing more oil.

Make no mistake about it, Mr. President, we must and can and are doing a better job of conservation, but there is an expansion of our economy and as a consequence, there is a tremendous demand and will be for the foreseeable future for crude oil. Alternatives will be developed, but they must be economically competitive and currently they are not and will not be for the foreseeable future.

So, Mr. President, imports are, again, over 50 percent. The number of active oil and gas rigs hit the lowest level ever recorded. Last month the rig count was 596. Imagine that, 596 compared with 1981 when there were 4,531 rigs drilling in the United States, rigs using American labor, providing jobs, providing for the economic vitality of the industry as well as the communities where those industries were located.

Offshore drilling in the United States fell by 41 percent this year alone. Refinery employment is on a major decline. The feeling in the industry is that the domestic oil industry is struggling to survive. America is over regulated and the most promising areas for new domestic production are closed—they are closed to exploration, Mr. President—by the Congress of the United States.

There is little hope expressed for recovery within the industry and that is unfortunate, Mr. President, because the American oil industry is moving overseas before the very eyes of this body. American jobs are being filled in other countries and this body's inability to make tough decisions is allowing this to happen. When I mention this body, I am obviously including the House of Representatives as well.

Last year, investment in America by 30 large oil and gas companies fell by 4 percent, while overseas investment increased by 27 percent. Total capital expenditures was 50 percent higher overseas than in America. In the past 5 years, U.S. oil companies have spent $30 billion more developing foreign resources than they have in developing domestic oil fields in this country.

Mr. President, the gap is increasing. The industry is going to other promising areas in countries eager to develop their resources: Russia, South America, Southeast Asia, Africa, to name a few. More than 60 Western oil companies are negotiating now joint ventures with the former Soviet Republics. That is happening right now: Chevron is in Kazakhstan, Marathon in Sakhalin, Unocal in Thailand, BP in Columbia, and Apache is in Burma.

Other countries encourage oil exploration and development. The United States simply shuts its door on the most promising areas. Endless layers of Federal regulatory hurdles inhibit exploration and development both onshore and offshore.

Mr. President, no new refiners have been built in America in recent years, and the prospects for new ones have been killed by the cost of compliance with the Clean Air Act. But new refineries are being constructed in other countries. Where is the balance? Cannot America come together with responsible environmental oversight and challenge America's technological capability with engineering techniques that can induce this country to build new efficient refineries that can compete with refineries overseas? If not, Mr. President, the handwriting is on the wall. We are simply going to import not only crude but we will increase our import dependence on refined products.

Mr. President, a lot of people seem to say, oh, well, that is all right. How does that oil come in, how does that refined product come? It comes in in foreign tankers, owned by foreign nationals, foreign crewmen who do not have the same oversight that U.S. tankers have. Where is our own self-interest, Mr. President? I find it baffling and I think the American people find it unacceptable.

The United States is the only country in the world with drilling moratoriums on its coastal waters, including some of the most promising areas off the coasts of California, North Carolina, and Florida. We recognize there can be a risk in drilling and have excluded drilling from the most sensitive areas, like Bristol Bay, as we should, because clearly the value of the renewable red salmon resource far surpasses the potential value of the oil.

But there are many other areas where we do not have that resource risk; in the Chukchi and Beaufort Seas in Alaska I support OCS drilling.

So the question is balance. We cannot eliminate all areas. We have to measure the environmental impact, use discretion and use technology to reduce the element of risk. I will speak more on this later.

Mr. President, how does the decline of the domestic oil industry affect America? We talked a little bit about jobs, but the petroleum industry in the United States has lost 350,000 jobs in the last 10 years. The number of industry jobs has been cut in half over the last 10 years. These, Mr. President, are more jobs lost in the petroleum industry than in the automobile industry,

the steel industry, the textile industry, the chemical industry or the electronics industry. We have lost more jobs in America's petroleum industry than in the other areas I mentioned.

These are real jobs. AMOCO laid off 8,500, 15 percent of the company; Mobil, 2,000 jobs; Unocal, 1,000; 1,500 jobs are going to be lost in my State of Alaska. Nationwide over 50,000 jobs are going to be lost in the petroleum industry this year. Job layoffs spin out in the economy, real estate values drop, stores close, banks fail, and more people lose their jobs.

Let us look at the balance of trade, Mr. President. In the past 10 years, America has spent $500 billion on imported oil. Imagine what we could do in this Nation with $500 billion in our economy? That is a challenge to the responsibility of this body.

In 1991, our Nation spent $43 billion on imported oil. Our total trade deficit in 1991 was $66 billion. This means, Mr. President, two-thirds of our total trade deficit is for imported oil.

We talk about offsetting a trade deficit. We talk about our trade with other countries. Let us focus on where the priority is. It is the cost of importing oil. We are doing it at the expense of our domestic industry by driving them out. And when you drive them out, Mr. President, what you set up is an increased dependence on imports because American capital goes overseas and the petroleum industry develops oil fields for American consumers. It comes back in the form of crude oil for refining in the United States, or it is going to come back more and more in the refined product, in foreign ships, with foreign crews, to be consumed by Americans.

Why not cut out the middleman? Can we not conceivably address the incentives within our own industry? Can we not meet with America' environmental community in a responsible manner to reduce this dependence? Certainly we can if we have the will to do it, and the will to do it is within the legislative body.

Make no mistake about it, Mr. President. The President of the United States, George Bush, supports domestic energy production expansion. The President has gone on record nine times supporting the opening of ANWR.

On the other hand, as I have noted, the Democratic Presidential candidate not only opposes ANWR, he wants to put it into wilderness in perpetuity.

Mr. President, in May of this year we spent $4.1 billion on imported petroleum products; $3.2 billion of that was for importing crude oil, and that is in 1 month. That is greater than our May trade deficit with Japan. Think of that: May, $4.1 billion on imported petroleum products, and $3.2 billion of that was for importing crude oil.

(Mr. SIMON assumed the chair.)

Mr. MURKOWSKI. Mr. President, as we debate the status of the energy bill, we are faced with the reality that we have before us a bill which does not include the most promising area in North America, namely ANWR, nor does it open any new areas for oil exploration in the United States. This body has failed, and failed miserably, to make the tough decisions to benefit the hard-working men and women of America. Development of ANWR would encourage America's oil production, independence, preserve American dollars, and create 735,000 American jobs in 50 States. This would be the largest single jobs project ever placed before the Congress, and the Congress has the authority, it has the power, to open it for competitive leasing.

These would be jobs, as I have stated, spread to every State in the Nation: 80,000 in California, 60,000 in Texas, 34,000 in Florida, 22,000 in New Jersey, 10,000 in Colorado, 2,000 even in the small State of Delaware. These are real jobs, for men and women of America. For unemployed workers, these are sound jobs. They are not handouts: jobs for engineers, welders, truckers, manufacturers, construction workers of all types. Because to open that area for production is going to require pipe, valves, insulation, and on, and on.

ANWR is a chance for this body to do something to actually create domestic jobs, to spur economic development. We talk about jump-starting the economy. What have we done? ANWR development alone would boost the U.S. gross national product by $50.4 billion. ANWR development would provide billions of dollars in taxes and royalties to the Federal and State governments each year. These are real dollars.

The proof of that, Mr. President? Well, let us go back and take a look at reality. Prudhoe Bay oil is consumed solely in the United States as required by law, because when this body passed the authorization for the pipeline to be built, the 800-mile pipeline from Prudhoe Bay to Valdez, it mandated that the oil flowing through the pipeline must be consumed in the United States. None of that oil goes to Japan or overseas.

Mr. President, the State of Alaska produces about 23 to 25 percent of the total crude oil produced in this Nation.

If we look at Prudhoe Bay since 1977, Alaska's North Slope oil companies have made direct purchases of supplies and services from every State in the Nation, totaling in excess of $47 billion. The total contribution to the U.S. economy to date from existing Prudhoe Bay oil development is $300 billion.

ANWR development could well be of a similar magnitude, it is potentially that big and large a project.

The huge boost to the economy resulting from ANWR development can be realized without, Mr. President, costing the U.S. Government one penny. We do not have to subsidize it. We do not have to make special provisions. All we have to do is authorize it for leasing and let the private sector go in there, put in their bids, and initiate exploration. If the reserves that are hoped to be there are there, by develop the field we will have a huge resource of domestic oil which will produce jobs and spur the economy. The huge boost to the economy resulting from ANWR development can be realized without costing the Government one penny. The lease sales, the bonus bids, the royalties will raise billions of dollars for the Federal Treasury.

Mr. President, where is the base of support? I am pleased to say a large number of my colleagues have continued to support the opening of ANWR. They say it is perhaps not the right time; we have to wait until we get over the political gridlock that we are in; that we cannot embarrass the Democratic candidate for Vice President. The labor community says that they are supporting candidates-elect Clinton and Gore; that they cannot move on it until the political process is over. We are in gridlock.

So what is new, Mr. President? We are in gridlock. We cannot move on it. Well, the amendments that were passed last night keep the momentum alive. I have said earlier the first requires an analysis of the economic benefits of opening ANWR to oil development, and that is solely an ANWR comparison. The second one considers all projects associated with creating more than 2,500 new jobs in any area of the United States. When we look at the two together, ANWR is going to make such an outstanding comparison that the focus will be on opening ANWR and the realization that we can do it safely.

Mr. President, as I have stated, if ANWR was developed, $250 billion would not be sent overseas. It could cut the trade deficit in half.

So why are we not moving, Mr. President? We know we are in an economic crisis. We are going to have to address the reality of reaping what we have sown. For far too long we have seen the elitist defeatists have the ear of the majority of this Congress. Their pessimism and fear have sown the seeds of weeds, so to speak. They do not believe in the American spirit of ingenuity or the ability of the U.S. industry to safely develop resources that make our country strong. They say we cannot do it. We should lock up things.

Mr. President, we sent a man to the Moon. We can open up ANWR safely. The comparison that we have made in technology has been in evidence. Extension of the Prudhoe Bay field into the development of the Endicott field is an outstanding standing example. The Endicott field came in last February. It came in as the 10th largest producing field in the United States. Today, it is the sixth largest, at 120,000

barrels a day. But it is only 55 acres; that is the physical size of the area.

People might say, we do not like oil fields. That is fine if you do not like oil fields, but we are dependent on oil. The Prudhoe Bay field is the best field in the world. We can be proud of it. Endicott and the technology used there is so far advanced and points to the technology that it can be used to open up ANWR safely.

What are we talking about? We are talking about a huge area. There are 18 million acres in the ANWR area. Half has been set aside in wilderness in perpetuity. That is fine. Out of the remaining 8½ million acres, we are proposing to lease 1½ million acres. They say if development takes place in that 1½ million acres, the actual footprint, the concentration of development will be about 12,500 acres. That is an area the size roughly of Dulles International Airport.

So it is a persuasive argument. We have to overcome this "can't do" philosophy that has succeeded in driving our industries out of the country. We have to do it now.

Mr. President, some of the areas that I think we have to reflect on are proof of the advancements that have been made. We had a terrible accident in Prince William Sound with the *Exxon Valdez* grounding—never should have occurred. But it did.

But what has happened since then?

Well, let us look at facts. We have had record salmon returns in the Prince William Sound. They swamped the market last year. This could be another record year because of the successful hatchery program. We had to dump 2½ million salmon at sea simply because there was no way to harvest those salmon in the short length of time available, and they were clogging the mouth of the streams. They simply had to be disposed of. There was no other alternative. The potential impact of pollution would have been too great.

We use the argument of the caribou in northwestern Alaska. Twenty years ago we had 64,000 in one area. Now we have over half a million. There are too many to count.

Mr. President, advances in drilling and production technology will further minimize the footprint of development, many of which have been pioneered from my State of Alaska. These include directional drilling, reinjection of drill muds and cuttings, reductions in well spacing, consolidation of support facilities, and drill pad size reduction. As I have indicated, Endicott field is proof—only 55 acres—and we can expect the advance of that technology.

Alaska's West Sak oil field contains somewhere in the area of 15 to 25 billion barrels of oil. But it is too heavy and too cold to produce under current technology. It is locked in the sand. But we are researching recovery technology at the University of Alaska in Fairbanks. It is going to take a few more years to bring this on line. Would it not be a shame if we lost the pipeline because we did not keep it open with oil from a new source after Prudhoe Bay declines? And Prudhoe Bay is declining at 10 percent a year.

Eventually we are going to have to remove that pipeline, Mr. President, if it is not operated at a level that is economically feasible.

How long will this body refuse to consider opening the coastal plain of ANWR? How high must the price of gas go up? How dependent do we have to become on the Mideast countries?.

Are we going to have gas lines again or another war in the Mideast? The battle over ANWR is not about the loss of a mystical wilderness value or manipulated rumors of environmental destruction. It is about real people, working people, real jobs, people who are out of work, people who are concerned for their future, people who are concerned for their children. It is about having gas in our cars, turning on our lights in the schools, putting our food on the table.

Mr. President, I am convinced, just as the people of my State are convinced, that ANWR is essential to our Nation's economy and that ANWR can be developed safely.

This body and the House of Representatives must put the defeatist attitude aside, make the tough decisions for the benefit of American men and women, use the new technology to overcome old procedures, use our engineering capability, our planning capability, and our environmental capability.

If we can put a man on the Moon, Mr. President, we can open up the coastal plain of ANWR to oil and gas development in an environmentally safe manner.

Mr. President, it is an affront to my State that we have reached this stalemate and this gridlock, and I know to many of my fellow Members of this body.

Mr. President, we have seen the advancement of this legislation. We have seen it through the Energy Committee. We have seen it structured as a partisan issue. We have seen it in the Presidential political arena that we are in.

Specifically, Mr. President, we have seen a situation where we are in a gridlock, and are going to have to await a new Congress to address the issue of ANWR with some finality.

That is indeed unfortunate, Mr. President. But nevertheless, that is the position that we are in.

Mr. President, I have gone on for some time. I see the floor manager who has been most patient, and I want to compliment him. I have further remarks, but I am going to ask unanimous consent that those remarks be entered into the RECORD as if read.

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

Mr. MURKOWSKI. I thank the Chair. I wish my colleagues a good day.

Mr. JOHNSTON. Mr. President, I thought we had an amendment cleared by Mr. STEVENS, but I understand Mr. STEVENS wants to do the amendment himself and have some words to say. If the Senator from Alaska would like to resume his comments, he is free to do so until his colleague comes.

Mr. MURKOWSKI. Mr. President, I would be happy to. I thank my friend from Louisiana. I will continue not at length but there are a couple more points that I feel should be made.

I would like the record to reflect the action of the Energy Committee on the issue of ANWR. In May of 1991, there was a motion to strike ANWR leasing from the energy bill. I was a member of that committee. The motion to strike ANWR leasing from the energy bill failed by a vote of 8 to 11.

I am pleased to say that all members of our side of the aisle voted against striking ANWR, and we had two members of the other side with us, and as a consequence, we were able to prevail on an 8-to-11 vote. On May 23, passage of the energy bill including ANWR—I think it is important to note that the bill at that time did include ANWR—the vote in favor of passage in the committee was 17 to 3.

So in May 1991, the Energy Committee voted out ANWR as part of the energy bill. We had 9 Republicans and 8 Democrats for which I am eternally grateful. Of course, we had the chairman of the Energy Committee as well.

Then we went to the floor in November 1991, with a cloture vote on the motion to proceed to the consideration of the entire energy bill. Sixty votes were required to invoke cloture. The Senate failed to invoke cloture. We got 50 votes and 44 against. Again, it is interesting to note the partisanship on the vote; 32 Republicans and 18 Democrats voted for cloture; 9 Republicans and 35 Democrats against cloture. That was the end of ANWR in the bill. We could not prevail. We needed 60 votes.

On February 4, 1992, we had a second cloture vote on the motion to proceed to the energy bill without ANWR or CAFE. Well, that was not a vote of any consequence because clearly ANWR had been stricken under the motion to proceed.

However, in February 1992, a unanimous-consent agreement proposed by the junior Senator from Alaska before this body to allow an up-or-down vote on ANWR was taken both to the Republican and Democratic caucuses. It was a unanimous-consent agreement that could be stopped by only one person's objection. The Republican leader announced on the floor that there was no objection on the Republican side; hence, prospects for an up-or-down vote were dependent on the other side.

Later that afternoon, on February 4, 1992, a Member of the other side objected on behalf of six Senate Democrats, opposing the unanimous-consent agreement to grant an up-or-down vote on the ANWR amendment.

Well, that is the reality, Mr. President. We are in a gridlock, political gridlock, with the elections, and ANWR has moved up not just to be an energy issue, but it is going to be an issue in the Presidential debate, because it divides the two sides. I think that is indeed unfortunate, because I think it sells America short on its technology and its ingenuity. I think America should recognize that the environmental community is not anxious to get aboard on ensuring how ANWR can be opened safely. They see this as an issue thousands of miles away from their membership—an idealistic issue.

I took members up there, both of the environmental community and Members of this body. One member got off the plane and looked around and said, "Where is the wilderness?" This is the wilderness, Mr. President.

The point is that some of the irresponsible environmental groups look upon this as an issue to keep their membership growing, to bring in funding, not as an issue to try and come aboard and address the concerns and the reality that is in the interest of America's energy security, to reduce our dependence on imported oil, to reduce the export of American jobs, and to address the stimulation of this economy by the most identifiable means available. This is a challenge to industry and a challenge to the environmental community; but the environmental community is hard and fast against it, because they can continue to raise money. Nobody can afford to go up to ANWR and look at it, except a few environmental elitists. It would cost a $5,000 bill to go up there.

So it is tied up in Presidential politics, as I have indicated. Presidential candidate Clinton opposes ANWR development, and on February 7, 1992, he stated:

I support legislation expanding wilderness designation in the ANWR area to include the 1.5 million acre coastal plain.

Well, Mr. President, that speaks for itself. Vice Presidential nominee GORE is a cosponsor of Senate bill 39, a bill to designate ANWR coastal plain as a wilderness. Those are the facts, Mr. President.

Mr. President, there is an area of this bill that I am sensitive to. It is an important provision missing from the language that we are considering today, providing for cancellation of certain oil leases in the Bristol Bay area. I am pleased that the other body included them in their version of the bill. This is going to come up in the conference.

I know the leadership is discouraging amendments and, after considering the issue carefully, I have concluded that focusing on this matter when the bill reaches conference is a strategy that will succeed. So I am not going to pursue the Bristol Bay lease buyback at that time. But the reality is that I have addressed it with my colleagues. The priority is on the wild salmon resource, which is renewable. I, along with virtually all Alaskans, feel that this area should be bought back.

Mr. President, it is important to remind my colleagues that one very important provision is missing from the language we are considering today. That is language providing for the cancellation of certain oil leases in Alaska's Bristol Bay.

I am pleased to note, however, that such a provision is in the energy bill passed by the other body, and the cancellation of these leases will come up in the conference on this bill. During that conference, Mr. President, I will extend every effort to ensure that my colleagues agree to it.

Candidly, Mr. President, I would have preferred to have language dealing with this sale in the Senate's substitute as well as in the bill sent over by the other body, but circumstances have simply not permitted. Initially, there were questions about the Energy Committee's jurisdiction over OCS issues. Later, when we debated the Senate energy bill on this floor, there was concern that including it would jeopardize other, legitimate leasing plans. Today, the leadership is discouraging amendments, and after considering this issue carefully, I have concluded that focusing on this matter when the bill reaches conference is the strategy most likely to succeed.

Mr. President, Bristol Bay is the foremost producer of wild salmon in the entire world, and a major reason why Alaska contributes a full one-third to the world supply of salmon. Its dominant fish, the famous Alaska red salmon, or sockeye, is considered one of the world's finest. For Alaskans it represents a major economic factor, as thousands of fishermen, processing workers, and others depend on it for a major share of their livelihood. The Bristol Bay fishery is often called the "billion-dollar fishery," and there is a great deal of truth in that name.

Despite what some preservationist groups would like the American people to believe, Alaskans have an excellent record of carefully husbanding the resources of our State. We believe deeply in conservation—the wise use of our resource wealth.

The Bristol Bay question is an example of exactly this approach. The area's tremendous natural potential is an eloquent argument for the cancellation of these leases.

Some years ago, when the Bristol Bay lease sale was initially proposed, the suggested sale area was vastly larger than the area actually leased. It was through the efforts of concerned Alaskans that approximately 80 percent of the original area was eliminated. Mr. President, I was proud to play a substantial role in achieving that reduction.

Now, it is time we take the final step, and I intend to press for conclusive action on this sale with all my strength in conference.

I thank the Chair, and I feel quite certain that the action taken by my colleagues on the amendments which they approved last evening will show ANWR in its true light, and in the national security interests of our Nation.

I thank the Chair and yield the floor.

AMENDMENT NO. 2793

(Purpose: To provide for equitable treatment of taxpayers entitled to credits on account of payments into the trans-Alaska pipeline liability fund)

Mr. WALLOP. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS, the Senator from Alaska, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for Mr. STEVENS, proposes an amendment numbered 2793.

Mr. WALLOP. 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, add the following new section:

SEC. . TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX OFFSET.

Subsection (d) of 26 U.S.C. 4612 is amended by inserting the following new sentence before the last sentence of such subsection (d):

"If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund can not use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate imposed by section 4611 not lapsed pursuant to 4611(f)(2) or expired pursuant to section 4611(f)(1), provided that no such credit taken under this sentence may be carried back to previous tax years.".

Mr. WALLOP. Mr. President, this amendment by Senator STEVENS has been approved by both sides of the Finance Committee, and by the Senator from Louisiana and myself. It is an amendment whose purpose is to provide for equitable treatment of taxpayers entitled to credits on accounts of payments into the trans-Alaska pipeline liability fund and has been cleared on both sides by both committees.

I ask unanimous consent that an explanation of the amendment by Senator STEVENS be printed in the RECORD.

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

EXPLANATION OF TRANS-ALASKA PIPELINE LIABILITY FUND AMENDMENT

Under current law (26 U.S.C. 4611), an excise tax is imposed on crude oil received at a United States refinery, and on petroleum products entering the United States for consumption, use, or warehousing. A portion of this tax, 5 cents per barrel, is dedicated to the Oil Spill Liability Trust Fund (the "Oil Spill Fund").

Section 4612(d) allows a credit against a taxpayer's liability for the Oil Spill Fund tax equal to the amounts paid by the taxpayer before January 1, 1987, into the Trans-Alaska Pipeline Liability Fund (TAPLF), because those funds are to be transferred into the Oil Spill Fund. (The TAPLF is a privately owned entity created by Federal statute.) However, the credit only kicks in when the TAPLF funds are actually transferred, and this transfer will occur only when all outstanding claims against the TAPLF are paid.

Issue: The TAPLF transfer will not take place until late 1993 at the earliest, so the credit will not be available until late 1993. However, the 5-cent tax against which the credit is applied is now expected to be automatically suspended in early 1993 when the Oil Spill Fund reaches $1 billion. Therefore, under current law, the oil companies will receive no TAPLF credit when the TAPLF funds are transferred into the oil spill fund, because the tax against which the credit applies, will have lapsed. Taxpayer companies believe this is unfair, because contributors to other Funds—the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund—have received credits when those Funds were rolled into the Oil Spill Fund, but contributors to the TAPLF—which is a private fund—will not receive similar credits.

The amendment would allow taxpayer companies to take a credit against corporate income taxes following the TAPLF transfer, notwithstanding suspension of the 5-cent tax due to the billion dollar cap *and* continuing beyond expiration of the 5-cent tax as if that tax had remained in effect. This provision does not permit any carryback application of the credit and would not apply the credit against the Alternative Minimum Tax.

PROPOSED AMENDMENT

At the appropriate place in the bill, add the following new section:

SEC. . TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX OFFSET.

Subsection (d) of 26 U.S.C. 4612 is amended by inserting the following new sentence before the last sentence of such subsection (d):

"If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund can not use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate imposed by section 4611 not lapsed pursuant to 4611(f)(2) or expired pursuant to section 4611(f)(1), provided that no such credit taken under this sentence may be carried back to previous tax years."

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

The amendment (No. 2793) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, we are down to a very narrow selection of amendments that remain. My understanding, after conversations with the Republican leader, is that most all of ours will have been worked out, or will be ripe for offering in the next little while, which will leave us, the Senate, confronted with a nongermane, irrelevant argument between folks on the Banking Committee, as standing between the Senate and its long-awaited energy policy bill going to conference.

It is my hope—and I am certain it is the hope of the Senator from Louisiana—that it is resolved. Whatever its merits, it has no business on the energy bill. Whatever its merits, it has no business tying us up with other things with equally little merit, and that is certain to be the case.

So it is my hope that the parties involved in that will find a way to settle their argument. The Senator from Louisiana has worked on this for 18 years, and I for 16, along with many others, for most of their Senate careers as well. We have come too far to be distracted by irrelevant and nongermane amendments to energy strategy.

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

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for a few minutes as in morning business.

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

The Senator from Illinois is recognized.

(The remarks of Mr. SIMON pertaining to the introduction of S. 3102 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

QUORUM CALL

Mr. SIMON. Mr. President, if no one else seeks the floor, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3]

Dixon	Mitchell
Johnston	Simon

The PRESIDING OFFICER (Mr. SIMON). A quorum is not present. The clerk will call names of the absent Senators.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], and the Senator from Tennessee [Mr. GORE], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

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

The result was announced, yeas 84, nays 10, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—84

Adams	Durenberger	Moynihan
Akaka	Exon	Nickles
Baucus	Ford	Nunn
Bentsen	Glenn	Packwood
Biden	Gorton	Pell
Bingaman	Graham	Pressler
Bond	Grassley	Pryor
Boren	Harkin	Reid
Bradley	Hatch	Riegle
Brown	Hatfield	Robb
Bryan	Heflin	Rockefeller
Bumpers	Hollings	Roth
Burns	Inouye	Rudman
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Coats	Kennedy	Sasser
Cochran	Kerrey	Seymour
Cohen	Kerry	Shelby
Conrad	Kohl	Simon
Craig	Lautenberg	Simpson
D'Amato	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Thurmond
DeConcini	Lugar	Wallop
Dixon	Mack	Warner
Dodd	Metzenbaum	Wellstone
Dole	Mikulski	Wirth
Domenici	Mitchell	Wofford

NAYS—10

Breaux	Kasten	Murkowski
Fowler	Lott	Smith
Garn	McCain	
Gramm	McConnell	

NOT VOTING—6

Burdick	Gore	Jeffords
Cranston	Helms	Symms

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Chair recognizes the Senate majority leader.

Mr. MITCHELL. Mr. President, I commend the Senators from Louisiana and Wyoming for their efforts to move this bill forward, through a great deal of adversity and a lot of unanticipated obstacles.

In order to enable the Senate to complete action on the many important measures that face us, it is imperative that we proceed promptly with this and other bills we must take up.

I ask those Senators who have an interest in this bill to remain in the Senate Chamber so that we can work out those interests.

The problem that the managers have encountered——

Mr. WALLOP. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator from Wyoming is correct. The Senate is not in order. Will Senators please clear the aisles, please take their conversations out of the Chamber?

The majority leader has the floor.

Mr. MITCHELL. Mr. President, the problem that the managers have encountered, and the reason for this rare procedural vote, was to get Senators to come to the Senate floor so that they could then conduct and complete whatever negotiations are necessary to permit the managers to proceed with the bill.

There is an old saying that the only things certain in life are death and taxes. But their is a third thing that is certain in the Senate, and that is at about 8 o'clock this evening, 10, 12, 20, or 25 Senators will come up to me and ask why it is we must do business between 8 p.m. and 10 p.m.? The reason is, of course, we did not do any business between 10 a.m. and noon.

Mr. JOHNSTON. And between 6 p.m. and 10 p.m. last night.

Mr. MITCHELL. So we simply have to proceed, and the managers have exhibited great patience and perseverance over a very long course over the consideration of this bill, which stretches back now on calendar time over several months.

So I encourage all of those Senators who have an interest. We have only a few matters remaining. They are important. But they are few in number, and it is my hope that we can complete action later today and in time to enable us to proceed to other business.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5517

Mr. MITCHELL. Mr. President, it is my intention that following completion of this bill the Senate proceed to consideration of the D.C. appropriations bill, and I ask unanimous consent that, upon disposition of the pending measure, the Senate proceed to consideration of Calendar No. 559, H.R. 5517, an act making appropriations for the government of District of Columbia.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I now hope that the managers will be able to complete action on this measure shortly so that we can proceed to the D.C. appropriations bill.

Mr. JOHNSTON. Mr. President, I am very pleased to say that we now have one of the biggest stumbling blocks worked out. Senator BENTSEN has said that he has no objection to the D'Amato amendment. So we are now prepared to take the D'Amato amendment.

Mr. D'AMATO addressed the Chair.

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

Mr. D'AMATO. Mr. President, on behalf of myself and Senator MOYNIHAN, I send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment? Without objection, it is so ordered.

AMENDMENT NO. 2794

(Purpose: To amend the Tariff Act of 1930 to prevent circumvention of antidumping and countervailing duty orders)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. MOYNIHAN, proposes an amendment numbered 2794.

Mr. D'AMATO. 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:

SEC. . AMENDMENT TO SECTION 781(a)(1)B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(1)(B), the phrase "produced in the foreign country with respect to which such order or finding applies" is deleted and the following new text is inserted in lieu thereof: "supplied by an exporter or producer in the foreign country with respect to which the order or finding applies, from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer, or from parts or components supplied by any party in any foreign country on behalf of such an exporter or producer".

SEC. . AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(B)).

In section 781(a)(2)(B), the phrase "produced in the foreign country with respect to which such order or finding described in paragraph (1) applies" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(2)(C) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(C)).

In section 781(a)(2)(C), the phrase "produced in the foreign country" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

The following phrase is inserted after the language of section 781(b)(1)(B)(ii): "or (iii) is supplied by the exporter or producer in any foreign country with respect to which such order or finding applies, or from suppliers that have historically supplied the parts or components to that exporter or producer,".

Mr. D'AMATO. Mr. President, I am pleased to propose an amendment that deserves the immediate attention of this body. It is necessary in order to give the 875 workers in Cortland, NY, and other American workers, a second chance at a level playing field.

I want to thank the managers of the bill who recognize the urgency of the situation.

Without action on this amendment and without a strong commitment to our U.S. fair trade laws, companies and workers from all across this Nation will end like Smith Corona—out on the street. I am joined by my colleague Senator MOYNIHAN.

The necessity and urgency of our amendment is highlighted by a true tragedy in our attempt to be not only globally, but domestically, competitive. It is without question, an amendment that will strengthen all U.S. companies ability to compete in a fair marketplace. The tragedy is that of the Smith Corona Corp. and the last American factory of the last American manufacturer of consumer typewriters. It is also a story, not so uncommon, about how we fail to provide a competitive environment right here in our own backyard. It is not about investment in capital or research. It is about U.S. fair trade laws and the exploitation of those laws by foreign countries and foreign companies.

It is also about fairness. While I support free trade goals and believe they are admirable, they must be balanced with the realities of the overall trade environment. Smith Corona has attempted for more than a decade to utilize U.S. fair trade laws to protect themselves from foreign companies who import to the United States and sell well below product cost, a practice known as dumping. We all know that in a free market, companies cannot sell below cost and survive over the long run. Smith Corona, operating in the realities of a free-market economy, has been forced to bring numerous antidumping cases before the U.S. Government. They won with an affirmative decision eight different times. Their main Japanese competitor, Brother, Inc. was found to be selling well below product cost. For example in 1980, the Commerce Department found that Brother was selling portables below cost and called for duties of 48.7 percent. Last August, Commerce again found that Brother was guilty of dumping and imposed duties of close to 60 percent. Those are not insignificant violations intended by our U.S. fair trade laws. They are obscene and outrageous. But, foreign importers have found a way to avoid paying them.

The 1988 trade bill created a new anticircumvention law to prohibit for-

eign manufacturers from avoiding duties by setting up U.S. plants. But, foreign countries found a loophole that restricted duties only to the original country of import, not to third-party countries from which parts can be imported.

By setting up an assembly operation in the United States and importing from a third-party country, they can totally avoid paying the antidumping duties. Importers can then afford to continue pricing their products below fair market value and drive competitive American manufacturers from our own, free, market. In the end, we have traded manufacturing jobs for often temporary assembly jobs. Thus, we weaken our economic base further.

This amendment is a much narrower version of the legislation that I introduced last Friday and is intended to deal with the problem facing Smith Corona. More specifically, this amendment is needed to close a loophole in the sourcing of third-country parts from historical suppliers that permit foreign manufacturers to evade antidumping duty orders. Under existing law, the value of these third-country parts is counted against circumvention because the parts do not originate from the original exporting country subject to the order, notwithstanding the fact that such party may have always been supplied by third-party countries.

This has led to the anomalous result that merchandise is taken outside the scope of an antidumping order through the transplant of a simple assembly operation even though there has been absolutely no change in the mix or sourcing of the covered merchandise's component parts. This amendment will provide the Department of Commerce with the statutory authority to reach circumvention patterns of this nature which current law does not address.

While we work every day to level the playing field and open markets abroad, loopholes in our own U.S. trade laws undercut our competitive position right here in our own backyard. It may not be too late to help Smith Corona's 875 employees. It is also not too late to help the thousands of other U.S. companies who are prayed upon by foreign competition.

We must not delay this action to look out for the best interest of U.S. industry and U.S. jobs. Our U.S. industries should be investing in research, development and capital, not in court battles. We must strengthen the law in order to ensure that our companies do not continue to be undercut by unfair trade practices.

Mr. President, I ask for the urgent support of all my colleagues. Nothing is more important today than an American job.

Mr. President, let me thank the chairman of the Finance Committee, Senator BENTSEN the Republican leader and the managers of this bill. Because what we are attempting to do here, by way of this legislation, is to deal with the inequity and the manipulation of the trade rules that unfairly, illegally impacts American workers.

In this particular case it involves the workers at a plant located in New York. But it is just as apt to be a plant located in any place in America. Smith Corona is the last American typewriter manufacturer left. What is taking place is that a foreign competitor is unfairly using predatory pricing tactics, cutting its costs below what it cost to produce, and violating the law time after time after time. And yet, through a subterfuge, it continues to do that. This amendment attempts to deal with that very serious loophole.

I am pleased to offer this amendment on behalf of Senator MOYNIHAN and myself. It is my hope that we would and will have the ability to close this loophole, and possibly even save these jobs. I ask unanimous consent that a statement by the president of Smith Corona on July 23, 1992 be included in the RECORD.

Mr. President, I thank the chairman and the Republican leader for his help.

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

STATEMENT OF G. LEE THOMPSON, CHAIRMAN, SMITH CORONA CORP. BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, JULY 23, 1992

Mr. Chairman, members of the committee, my name is G. Lee Thompson. I am chairman of Smith Corona Corp. Thank you for the opportunity to testify before you today on U.S. competitiveness.

U.S. businesses can compete with anyone. Our companies are competitive in the production of goods and services across a broad spectrum of business endeavors.

What is competitiveness? The President's Commission on Industrial Competitiveness put forward a useful definition in 1985:

"Competitiveness for a nation is the degree to which it can, under free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real incomes of its citizens."

"Competitiveness is the basis for a nation's standard of living."

Note the important qualifier: "Under free and fair market conditions." This is where I want to put the emphasis of my statement today. And it is where I have the most direct experience.

Today Smith Corona stands as the Nation's last remaining manufacturer of portable electric typewriters and word processors.

In the coming months, however, Smith Corona will join the ranks of so many of our Nation's former domestic manufacturing concerns—headquartered in the United States, but forced to move manufacturing operations offshore to compete against foreign competitors who compete on terms inconsistent with fair trade.

The prospect of losing U.S. manufacturing in the typewriter industry to low wage foreign sources may seem a small footnote to "globalization"—where borders are coming down and the production engine is fueled by the lowest costs, most efficient inputs, and open competition. While this idea seems to represent what is best about the hope and opportunity inherent in the United States, it also represents a naive, simplistic and destructive approach to real-world public policy making.

Domestic manufacturing is the driving force behind much of the growth and expansion in our economy. Based on quantitative information, the chamber of commerce figured the importance of domestic manufacturing and its contributions to a community's economy to be an additional 64 nonmanufacturing jobs for every 100 manufacturing jobs. These jobs range from wholesale and retail trade, to transportation, finance business services, and so forth. Aggregate personal income associated with additional manufacturing jobs was sufficient to spawn seven new retail establishments. Maintaining domestic manufacturing is clearly a key to global competitiveness and our continued economic success.

While pursuing a fuzzy notion of global free trade, our Government has missed its real effects on American manufacturing. I fear, Mr. Chairman, that our current trade and competition policy will lead to the eventual demise of U.S. manufacturing, competitiveness and opportunity, and destroy all that led companies like Smith Corona to become world leaders.

Smith Corona is a valid illustration of both the success of U.S. competitiveness and the failure of our Government to sustain a competitive marketplace.

For more than 100 years, Smith Corona has been the world leader in the manufacturing of portable typewriters; first manual, then electric, then electronic, leading us to word processing. The typewriter industry has long been driven by design ingenuity, features, consumer needs, and market dynamics such as pricing. In the mid-1970's our foreign competitors took a new approach—unfair pricing. This divergence from fair competition sent the industry on a race to the bottom.

Just 2 days ago we announced the eventual relocation of our manufacturing operations to Mexico, costing 775 of our employees their jobs. Intense predatory pricing recharacterized the whole nature of our business. Were this pricing based on features, quality, performance or most importantly—efficiencies—the market would have been enhanced for both consumer and producer. However, our foreign competition did not have better costs of production, efficiencies or other means to reduce prices.

Rather, a protected home market permitted them to set upon the U.S. market, knowing that barriers to price competition protected them at home.

To wit, the managing director of our Japanese competitors recently admitted in the June 22 "Financial Times" article—article attached—that his company, Brother Industries, has tolerated losses in its U.S. operations to secure market share. Put another way, they circumvented U.S. laws and continued dumping their products to increase sales at the expense of U.S. manufacturers. As each of you must know, U.S. companies cannot survive by selling below cost over time.

To our Government, I say, wake up—this is the real world of competition. If companies cannot turn to their Government to provide conditions of fair competition, predatory pricing will force U.S. companies out of business or offshore.

In an effort to end the dumping, Smith Corona initiated actions to obtain relief through the fair trade regime mandated by Congress. Since 1979, we have prevailed in 8 separate antidumping decisions.

Despite this string of successes, the dumpers have never been forced to comply with the dumping orders. Instead, the targets of our action have persistently, cleverly and with the support of our Government, circumvented U.S. antidumping trade laws.

In 1988 Congress responded by creating an anticircumvention law. It was intended to be black and white, with just enough gray to give the administrators at the Commerce Department the flexibility to address new types of avoidance. Yet, Mr. Chairman, as we have experienced time and again, discretion divorced from a focus on the statutory purpose too often results in bad decisions and lost jobs.

For example, after passage of the 1988 Trade Bill, foreign manufacturers found that shifting the base of a company's assembly operations would allow them to evade dumping duties. By establishing a phantom factory, where virtually no value is added other than mere assembly, a dumper can claim that the U.S.-assembled typewriter is no longer the object of a dumping order—even when the final product is the same identical product subject to an order.

Does this make sense? It does if your intention is to circumvent U.S. trade laws. Is it good public policy? Only if we wish to displace U.S. manufacturing with assembly line work.

Assembly operations do not generate the high wages, high tech jobs created by real manufacturing. The level of related activity in other sectors I mentioned earlier does not occur. Even recognizing the positive spin-off from a few assembly positions in a transplant operation, the assembly-only operation obviously requires far fewer workers per unit of production.

For more than a dozen years Smith Corona has fought at the front lines, using every legal and political weapon in the arsenal available to U.S. manufacturers. Yet, we have consistently come up empty. The laws do not move fast enough to keep up with new techniques designed to attack manufacturers; Government officials charged with enforcing our laws have unfortunately too often exercised discretion to let the dumping continue. The natural interest of shareholders in maximizing return on investment says you play Don Quixote only so long.

Mr. Chairman, from the front lines of U.S. manufacturing, I have witnessed the ravages of unfair trade and noted the inability of administrative discretion to support the advancement of U.S. industry. As vice president of Sylvania Television, and then as president of Singer Sewing Machine, industry's calls for fair trade were dismissed as protectionist. There is no longer a U.S. sewing machine or T.V. industry, with the exception of Zenith.

In their wake, we clearly see that a failure to act leads to the wholesale devastation of entire industries and a further erosion of the U.S. commercial base. My experiences have revealed to me certain basic shortcomings in American competitiveness.

First, Americans fail to understand or appreciate the substantial importance of manufacturing. To many, investment in America is investment, without regard to its source or character. The continuing thirst for capital investment has led many of our communities and their political leaders to race to the bottom, willing to displace manufacturing with assembly jobs, so long as the job lands in their community. We ignore national interests in our pursuit of the parochial.

Second, I am concerned about the failure of Government to respond in a timely fashion. By the time relief comes to industry, or even the prospect of relief, it may be too little too late, such as with Smith Corona.

In pursuing relief, we frequently heard the claim that adequate discretion existed to remedy our problem. But, how useful is discretion if it is in the hands of those who for whatever reason choose not to act?

Political leaders need to reflect on why it matters if a manufacturing job is displaced with assembly. Where does the manufacturing go? Where will the skilled labor reside? Where is the value and what are the wages? Does foreign ownership matter? Of course, who will make the decisions of where we manufacture, do our engineering and design, high technology, and, where will the profits go?

Do these phantom factories represent the future of American manufacturing? To claim them as manufacturing is an exaggeration, to encourage their growth is a national resignation to low wages and decline.

In closing, let me underscore that Smith Corona has pursued every available means to ensure fair trade and secure a competitive marketplace for U.S. manufactured goods. The successive failure of our Government to respond in a timely and effective manner has denied us the opportunities for competitiveness and forced us to join other U.S. manufacturers offshore.

Thank you very much for your time.

[From Financial Times, June 22, 1992]

BROTHER SLIMS DOWN BLOATED PRODUCT RANGE

In the foyer of the Brother Industries building, a smiling photograph of Mr. Juan Antonio Samaranch, president of the International Olympic Committee, congratulates the Japanese company on sitting at the top table of Olympic corporate sponsors along with Coca-Cola, 3M, Philips and a few others.

Having already paid for its high profile, Brother should be able to bask in Olympic year publicity. Instead, the year of Barcelona has become an important test of strength for the maker of information equipment, sewing machines and other household electric appliances.

With profits under pressure, Brother has just announced a restructuring plan that could become commonplace among Japanese manufacturers, many of which are burdened by too broad a product range and struggling in overcrowded consumer and business equipment markets.

Another problem not unique to Brother is the side-effect of having achieved the admirable aim of producing high-quality goods at reasonable cost—the company has consistently reported poor operating profits and has been dependent on non-operating items, such as profits on stock sales, to boost its earnings.

The weakness of Japanese stock prices has not only increased the cost of capital for manufacturers such as Brother, which lifted it long-term institutional borrowing from zero to Y3bn ($23.8m) last year, but it has also denied the traditional easy profits on marketable securities.

For Brother, these circumstances were behind a mediocre operating profit of Y486m last year, down from Y2.35bn. The company would have reported a loss were it not for a change in pension plan accounting that produced an operating gain of Y669m.

Sales for the year were down from Y166bn to Y165.2bn. Net profit rose slightly from Y3.2bn to Y3.6bn, thanks mainly to a Y1.1bn increase in gains on property and equipment sales, and an extra Y699m in gains on stocks sold.

In response, Brother plans to cut its product range by about 30 per cent to 700 items, transfer 10 per cent of its 5,300 Japanese workers to new ventures, increase the percentage of parts produced in-house, and make research and development operations more market sensitive.

Mr. Tamotsu Shimizu, the company's managing director, said a slowing economy had forced the restructuring. Office automation equipment and industrial machinery markets, already overflowing with competitors, were made all the more difficult by capital spending cuts. Meanwhile, sales of its old mainline product, home sewing machines, rose by 16 per cent.

He reckons that reducing the product line by 30 per cent will reduce sales by only 10 per cent, as the items to be discarded are clearly not Brother's best sellers.

At the same time, the company is hoping that a focus on successful products will eventually lead to an increase in sales and most importantly, stronger profits.

"If it's not contributing to profits, we will no longer make it. Sometimes you continue to produce a loss-making item because it is something that your customers want and you have to keep their loyalty," Mr. Shimizu said. Items to be pruned, he says, will include white goods and older-style sewing machines.

Asked whether the company had tolerated losses in order to secure market share, tilted his head back, closed his eyes and said: "Yes, that's true." He explained, for example, that US discount stores wanted high-volume, low-cost deals that sometimes force a company to take losses.

Mr. Shimizu pointed to a curious contradiction that Brother was trying to resolve. Its international sales division is wholly owned and tends to produce good-quality market research material for product developers, while market trends are less well-tracked at home, where sales are handled by an affiliate of the company.

"Within Japan, we have been product-driven and we have got to become more market oriented," Mr. Shimizu said. Again, Brother is one of many Japanese manufacturers reaching this conclusion, as the boom years of the late 1980s—when GNP expanded at 6 per cent and 7 per cent and the stock market soared—gave over-confident producers the impression that virtually anything would sell.

During this period, companies rapidly introduced slight variations on existing producers and also attempted to squeeze into new markets. The steel companies elbowed their way into electronics, the camera makers attempted to re-establish themselves as office equipment companies, and the consumer electronics makers launched hundreds of new items each year.

Times have changed. Japanese car makers are at least talking about slowing the flow of their new releases, while Hitachi, the consumer and commercial electronics company, wants to lengthen the life-cycle of its products to reduce expenditure on research and development.

But, in spite of weak earnings and murmurings about reform, most companies are yet to bite the bullet, and there are doubts as to whether Brother's changes go far enough.

For example, the planned shift in parts sourcing only aims to increase in-house components from 12 per cent to 13 per cent of all parts. The company also wants to maintain Japanese production at 80 per cent of the total, though it hints that south-east Asian

and Chinese factories will probably take a larger share if profits continue to falter.

Mr. Shimizu is confident that the success of new ventures will allow the company to soak up excess labour, making redundancies unnecessary. One of those new ventures is a *karaoke* (singing machine) systems company, Joysound, of which he is a director.

Brother plans to provide *karaoke* hardware and software in Japan, and would eventually like to go international. However, the company could find the karaoke room as crowded as the white goods market and, in two years the company may be reckoning as to whether the start-up funds could have been better spent shoring up its position in information equipment, which accounts for about 40 per cent of sales.

The company is genuinely reassessing the cost of being an Olympic star, and contemplating whether to be a corporate front-runner again at the 1996 games in Atlanta.

"They want a lot more money for Atlanta," explained Mr. Shimizu, aware that Brother's presence in the main stadium is less important than its survival in the market.

Mr. JOHNSTON. Mr. President, we are prepared to accept the amendment.

Mr. MOYNIHAN. Mr. President, I am pleased to join with my colleague Senator D'AMATO in offering an amendment to the U.S. trade laws that will make it harder for foreign producers to evade U.S. antidumping and countervailing penalty tariffs. And, hopefully, the enactment of this change will cause the management of Smith Corona to reverse their decision to shut down all manufacturing operations in Cortland, NY.

We need to hear from the administration that the President will support such a change in the law. And we need to hear from Smith Corona that it will keep the plant open.

At a minimum, the change in the law offered by Senator D'AMATO and me today will, we hope, provide some relief for other U.S. manufacturers who win dumping cases against foreign imports, only to see the foreign companies find new ways to circumvent the penalty tariffs that they must pay.

This is one more step in a long line of efforts that I have made to assist Smith Corona to get the relief it has been entitled to. I had to change the law in the 1988 Trade Act to get the administration to stop dumped typewriters from Japan, and today I am trying to do it again.

We thank the chairman and ranking member of the Finance Committee for their assistance on this measure.

Mr. ROCKEFELLER. Mr. President, I support this amendment—it is identical to a provision in S. 3046, which I introduced earlier this month—and action on it is long overdue.

This amendment deals with circumvention—deliberate efforts by importers or foreign producers to avoid the consequences of unfair trade practice penalties by shifting the location of their production or the composition of their product.

There are a growing number of examples of circumvention, and the Senator from New York has described one of the most blatant—and tragic—situations involving Smith Corona. I would like to provide another example—in my judgment, an even clearer case of circumvention—that might help explain this complex matter to Senators.

In brief, there is presently outstanding an antidumping duty order against silicon metal, a substance used in making aluminum, among other things. Silicon metal is generally defined as containing more than 96 percent silicon, and the antidumping duty order contains that specification.

To no one's surprise, except perhaps the Commerce Department, after the domestic industry won this case, one of the foreign producers began shipping material that was 94 percent or 95 percent silicon, apparently to the same customers it had previously, and presumably for the same purposes. To my mind, this is an obvious case of circumvention, and one which our amendments to the law in 1988 were intended to address. Commerce Department lawyers, in contrast, argue that those amendments do not give them authority to revise the existing antidumping duty order to include these new imports. In other words, if the lawyers get their way, the foreign producers will get away with what can only be regarded as a deliberate effort to circumvent U.S. law.

Mr. President, I have written Secretary of Commerce Barbara Franklin on this matter, and I ask that the text of my letter be printed in the RECORD at the conclusion of my remarks.

This amendment is intended to deal with situations like the silicon metals case and the Smith Corona case, which were not anticipated in 1979, when we last made major revisions in the law. 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 anti-dumping duty orders.

At the most obvious level, circumvention is fraud, and we already have adequate provisions in our law to address it, provisions which I discussed in greater detail when I introduced S. 3046. Even with the law, however, sufficient enforcement resources will always be a problem in cases of this kind. It is not hard for a determined importer consistently to stay ahead of customs enforcement authorities.

The pending amendment is intended to deal with more complicated situations, such as when the product in question is in some fashion transformed in a 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.

The Smith Corona case involves the most complicated situation 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.

The solution to the problem 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 amendment 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.

Mr. President, this is a balanced amendment that deals with an important trade law problem. I urge its adoption.

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

U.S. SENATE,
Washington, DC, July 24, 1992.

Hon. BARBARA H. FRANKLIN,
Secretary of Commerce, Washington, DC.

DEAR MADAM SECRETARY: I am writing to comment on an important decision your Department is considering regarding enforcement of the circumvention provisions of our antidumping law. The case in question is Silicon Metal from the People's Republic of China, Case No. A–570–806.

In brief, the petitioners in this case are arguing that the PRC is circumventing the existing dumping duty by shipping metal that is 94–95 percent silicon rather than the 96 percent silicon which was the industry standard for silicon metal at the time the petition was filed, and which is the composition specified in the dumping order. It is seeking modification of the scope of the order to include the 94–95 percent silicon metal now being imported, which it contends is either a minor alteration of the class or kind of merchandise covered by the order or a later-developed product.

While this appears to me to be as a clear a case of circumvention as I have seen based on the facts presented to me, and I cannot understand the Department's reluctance to move quickly to modify the order, I particularly want to comment on Congressional intent with respect to the provision of law at issue in this case. As you may know, I served on the Finance Committee when the circumvention language in the law, section 781 of the Tariff Act of 1930, was adopted as part of the Omnibus Trade and Competitiveness Act of 1988, and I followed the debate on these provisions closely.

The later-developed products provision in particular came initially from the Senate and was intended to apply to merchandise that was similar to that covered by the order with respect to general physical characteristics, expectations of the ultimate purchasers, ultimate use, channels of trade, and advertisement and display; all criteria which my understanding of the facts in this case tell me are being met.

There is no question that Congress clearly intended in cases like this, whether covered by the minor alterations provision or the later-developed products provision, that the order be applied to products that are circumventing it. Your legal staff seems to be under the impression that the phrase "clarify the scope of the order," which appears at a few points in the legislative history, limits the authority of the Department to expand an order beyond its original terms. To the contrary, this language refers not to what the Department is permitted to do under the circumvention provisions, but rather, to what Congress did in enacting the circumvention provisions, i.e. clarify that orders are to cover minor alterations, newly developed products, and other forms of circumvention when the statutory criteria are met. The Department's current interpretation, which is contrary to what I understood was intended at the time, renders section 781 virtually useless in fighting circumvention. Indeed, this interpretation allows foreign producers to continue the very practices that section 781 was intended to prevent.

Congress was concerned that foreign producers could "technically transform" merchandise so that it would fall outside the scope of an antidumping order. For that reason, Congress required the Department to disregard such technical transformations, and analyze circumvention using "practical measurements," including "such criteria as the overall characteristics of the merchandise, the expectations of ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported product." (S. Rept. 100–71, p. 100).

I would also note that your Department itself has recognized that the circumvention provisions require it to conduct a circumvention investigation even where "the descriptions of the merchandise, along with the Department and the ITC's final determinations in the original petition, make clear that [the merchandise] is not within the scope of the antidumping duty order." Brass Sheet and Strip From Germany: Final Negative Determination of Circumvention of Antidumping Order. In that case, the Department concluded that the allegedly circumventing merchandise did not fall within the scope of the existing order, but it nevertheless, "independently evaluated each of the five criteria under the minor alterations provision as set forth in the legislative history." In doing so, the Department recognized that circumvention cases require a different inquiry—and it conducted that inquiry. Similar circumstances exist in the silicon metal case.

I am also concerned that the Department appears to be suggesting that because it had previously rejected a request to expand the scope of this investigation to include material that contained as little as 90 percent or less silicon, it is now precluded from including within the scope of the order material containing 94–95 percent silicon. That is tantamount to saying that because the Department made one mistake, it is required to make another one in order to be consistent, even though the facts of the second request, as well as its legal basis, are different from the first. The suggestion that the proper form of relief in such circumstances is to sue the Department forces on the petitioners the most expensive and time-consuming path open to them. I would certainly hope, in the interest of minimizing the administrative burden, that the Department will not end up taking the position that it will never change its mind unless forced to by the courts!

From the standpoint of the law, in addition, such an interpretation appears to me to suggest that petitioners should have the burden of anticipating every possible variation of the product in question in advance of the investigation, even though section 781 clearly encompasses situations that develop during, after, or as a result of the investigation. That interpretation would also render this provision effectively moot.

I understand that the Department has not yet made its decision in this matter. I am confident that your decision will be in accord with the law and Congressional intent. I hope the foregoing comments will help clarify that intent.

Sincerely,

JOHN D. ROCKEFELLER IV.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, we are happy to accept the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment offered by the Senator from New York.

The amendment (No. 2794) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Connecticut [Mr. DODD], 2790, to amendment No. 2789 offered by the Senator from Minnesota [Mr. WELLSTONE].

Mr. JOHNSTON. Mr. President, may I direct an inquiry to the Senator from Connecticut? Does the Senator wish to vote on that matter at this point?

Mr. DODD. Mr. President, first of all, I say to the distinguished Senator from Louisiana, this is a matter that is being worked on right now. We are trying to see if we can come up with some resolution of this issue in terms of how the matter will be disposed of. That is an ongoing process at this particular moment. I will not press for the vote at this particular moment on the issue.

Mr. JOHNSTON. I thank the Senator. As I understand the Senator, there is hope that the matter will be worked out soon.

Mr. DODD. Hope springs eternal. I am hoping that will be the case.

Mr. JOHNSTON. Mr. President, that leaves three other amendments. I wonder if Senator DOLE'S amendment regarding ethanol and Senator GRASSLEY'S ethanol amendment will be offered.

Mr. WALLOP. Mr. President, I ask unanimous consent that the two referenced amendments, Dole ethanol, Grassley ethanol, be dropped from the list in the consent agreement propounded last night.

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

Mr. JOHNSTON. Mr. President, that leaves Senator DOLE'S solid waste disposal, phosphoric acid process amendment.

There is the one remaining amendment, other than the Dodd amendment, which is the phosphoric acid amendment.

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. JOHNSTON. 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. JOHNSTON. Mr. President, the one clear message that the American public and the Congress are sending to the President this year is that they are not happy with the direction of this country. They are demanding change. More than any other legislation in the Congress, or in recent history, for that matter, the National Energy Security Act—this energy bill now pending—has the potential to bring about that change. It promises far-reaching changes that will have a profound and positive impact on the American economy, on the environment, and on the daily lives of the American people.

The energy policy of the past two decades has led us to an ever-increasing reliance upon foreign sources of oil, the devastation of the domestic oil and gas industry, and the export of tens of thousands of American jobs, and tens of billions of American dollars.

With this vote today, we are taking a monumental step toward changing that failed policy of the past, replacing it with a made-in-America energy policy for the future.

With this vote, we are telling the American people that we get the message. We are willing to rise above partisan politics to tackle one of the most difficult and complex problems facing our country. We are capable, Mr. President, of delivering the changes needed to promote America's energy security.

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

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

LDC BYPASS PROVISIONS

Mr. FOWLER. Mr. President, I would like to commend the distinguished Senator from Louisiana for his dedication and persistence to the pending national energy legislation. I would like to ask a question concerning one of the more contentious items addressed in the legislation which deals with the subject of natural gas local distribution company [LDC] bypass.

I had the occasion some years ago to chair one of the Energy and Natural Resources Committee hearings which was dedicated to this topic. I am well aware of the strong views held on both sides of the matter, and I believe it to be in the best interest of all to adopt the language in S. 2166, which states that neither the so-called optional certificate nor the enhanced section 311 procedures can be used to accomplish a LDC bypass if the LDC objects.

Although the language in the Senate bill does not fully satisfy the consumer groups, State public utility commissions, and LDC's, it does seem to strike a politically realistic balance in that the new, streamlined, and enhanced regulatory procedures will not be available for bypass while the traditional Natural Gas Act section 7 procedures will remain available.

I would like to direct an inquiry to my distinguished colleague, the chairman of the Energy Committee, as to what his intentions are during the conference with the House with regard to the bypass language embodied in the Senate bill?

Mr. JOHNSTON. LDC bypass is one of a number of issues addressed in the natural gas provisions of the Senate and House energy bills where the two Houses have taken somewhat different approaches. In order to reconcile the differences between the two bills in conference, some compromises and tradeoffs will be necessary.

Therefore, while I cannot assure the Senator from Georgia that the Senate bypass language will emerge from conference intact, I can give him my assurances that in negotiating with the House I will do my best to preserve the balance and protect the interests that are reflected in the provision of the Senate bill.

Mr. FOWLER. I thank the chairman for his cogent response.

MURKOWSKI STUDY AMENDMENT NO. 2791

Mr. WIRTH. Mr. President, Senator MURKOWSKI believes very strongly that we should open the Arctic National Wildlife Refuge to oil drilling. I happen to believe that this is exactly the wrong thing to do. Now, I happen to think we have already had a lot of study of this proposal, but I am not averse to having it studied a little more. If nothing else, that might help bring some of the worst hyperbole about the benefits of drilling in the Arctic refuge under rein.

Back at the beginning of the year, administration officials began tossing around rather large estimates of the number of jobs that would be created by oil development in the Arctic refuge.

The President's budget message put this number at around 200,000. Others in the administration claimed 735,000 new jobs. My colleague from Alaska quoted the 735,000 figure on this floor.

The American Petroleum Institute bought full page ads using this figure. The really striking thing about this ad is the breakdown of how many jobs will supposedly be created in each State. California supposedly will reap 80,000 new jobs. Florida and Illinois get about 30,000 new jobs.

But Alaska only gets about 13,000 jobs, Mr. President. The State where all this massive industrial development is to take place only gains 13,000 new jobs according to this study. All the construction crews, the drilling crews, all the people involved to transporting all that equipment to the Arctic Circle, the people needed to feed, clothe, and house those workers—all the real jobs that would be created if oil was even found—amount to only 13,000 jobs.

Please remember that Interior Secretary Hodel asserted that the chance of even a minimum amount of producible oil—not the billions of barrels figures we always hear, but just a few hundred thousand barrels—was 19 percent. In other words, Hodel thought the odds were 4 to 1 that no oil development would take place.

In fact, Mr. President, the Department of the Interior's environmental impact statement on oil development in the Arctic refuge states that the actual number of people who will be employed for oil development in the Arctic refuge for the boom cycle of a few years of construction would be about 6,000 people; 6,000 jobs, or 13,000 jobs, is nothing to sneeze at. But here we are asked to believe that in the rest of the country; in Hawaii, Vermont, Kentucky, and every other State in the Nation, 700,000 other jobs would be created. These absurdly inflated job estimates come from a study commissioned by the American Petroleum Institute back in 1990. We did not hear much about it back then, Mr. President, because the study is embarrassingly flawed. But now job creation is the new political hot potato—so this study was resurrected.

These numbers are not based on real jobs which might be created in construction or in the oil industry. They are, instead, based on a projection that finding oil in the Arctic would have a major effect on the whole national economy. But that projection, and the conclusion that opening the Arctic would create 700,000 jobs, is founded on two assumptions which we know are simply not true.

The first false assumption is that oil from the Arctic refuge would reduce world oil prices by $3.60 a barrel. That is simply wrong. ANWR production—if there was any—would range from 0.1 percent to 2.2 percent of total world demand. So it is not very much in the context of the world market.

But even more important to remember is that the Middle Eastern nations have the ability to swamp any effect that ANWR might have with their own ability to turn production up or down. Kuwait and Iraq produced nearly 10 percent of the world's oil, but their removal from the world market was quickly replaced by their OPEC neighbors.

According to a February 1992 report by the Congressional Research Service's Economics Division, the likely effect of additional supplies from ANWR would be that, "OPEC may cut output * * * to offset the supply effect of ANWR, as it usually has in similar situations."

The result of that, Mr. President, would be little or no change at all in oil prices.

The second false assumption is that lower oil prices create jobs. In the first place, lower oil prices can cost us as many or more jobs as it may create. It is low oil prices that have cost us 400,000 real jobs in oil and gas production over the past decade.

And if you think that low oil prices cause the general economy to boom, why is our economy in the shape it is in, at a time when oil prices have been stuck lower than they were before Desert Storm started?

In December 1990 oil prices were about $26 a barrel. Today, they are $6 lower than that—about $20 a barrel. Has that added thousands of jobs to our economy? Does our economy look more robust now than it did a year ago?

The price drop over the past 14 months is twice what the authors of this study claim would produce 735,000 jobs. But where are the jobs, Mr. President? Right now, low oil prices are costing us jobs, as those low prices strangle our domestic oil and gas industry. The Senate just voted by an overwhelming margin to change the tax rules to give a billion dollars' worth of tax relief to oil and gas producers precisely because lower prices have decimated the oilpatch.

Mr. President, there are many other faulty assumptions that went into this job projection. The study simply assumes that we will find oil in ANWR, even though the Department of the Interior says the odds are that we will not. Then it assumes that we will find every potential oilfield there chock full of oil—something the Department of the Interior says has less than a 1 in a 100 chance.

Then, Mr. President, we should not forget that any jobs created by opening ANWR would not, for the most part, happen until sometime after the year 2000. The oil industry has testified that the earliest we could get oil from the

Arctic Refuge is 10 years after leasing—and that it could take even longer. Members should know, too, that there is lots of oil available outside the Arctic Wildlife Refuge on Alaska's North Slope. There are several very large known fields, fields with literally billions of barrels of oil in them, just sitting there. Why are they sitting? Because today's low oil prices make producing them unprofitable. The same could well happen in the Arctic Refuge.

In short, Mr. President, talk of opening the Arctic refuge creating thousands upon thousands of jobs is unsupported by any reasonable analysis.

Of course oil development would create some jobs, as would OCS development off California or the Florida Keys, or damming the Grand Canyon to provide cheap hydroelectric power. But that does not mean we should do these things.

If we are lucky, the study Senator MURKOWSKI has proposed will take these facts into account, and help rein in the wild and incredible projections that have been bandied about on this issue.

UNANIMOUS-CONSENT AGREEMENT

Mr. JOHNSTON. Mr. President, I will shortly ask for a unanimous-consent agreement on the Dodd amendment. It has been worked out, although we are adding one final clause.

I thank the Senator from Connecticut and the Senator from Texas [Mr. GRAMM] for working out this very difficult and contentious matter. It is not finally worked out to the satisfaction of either one because the issue has not been disposed of, but at least this unanimous-consent agreement will give a measure of procedure to deal with this.

So, Mr. President, I ask unanimous consent that when the Senate next receives from the House a message on S. 2733, the GSE bill, and the Senate has disposed of the motion to disagree to the House amendment, that the Senate be deemed to have agreed to either a motion to request a conference with the House or have agreed to the House request for a conference, without any intervening action or debate, and that the Chair be authorized to appoint conferees on the part of the Senate; provided further, that no amendment dealing with the subject of limited partnership rollups will be in order to any legislation prior to the Senate reconvening on September 8, 1992.

Mr. President, before I put that unanimous consent I yield to Senator DODD.

Mr. DODD. Mr. President, I thank the Senator for yielding.

Let me add that I have made an assurance to Senator GRAMM of Texas that I will notify him a day in advance of the day which I plan on offering an amendment dealing with the topic of limited partnerships.

This is not necessarily part of the unanimous-consent agreement but as a statement to be included in the context of the unanimous-consent request that is now pending by the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I now put the request.

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

Mr. DODD. Mr. President, I ask unanimous consent that I may be able to withdraw the Wellstone amendment.

Mr. JOHNSTON. As amended by the Dodd amendment.

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

The amendment (No. 2789) was withdrawn.

Mr. DODD. Mr. President, I withdraw my own amendment (No. 2790) as well.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2790) was withdrawn.

Mr. DODD. Mr. President, if I could just take 30 seconds, I want to personally thank Senator JOHNSTON and Senator WALLOP, as managers of the legislation, for their great patience and for the consideration they have shown to me, both yesterday evening and today. I also want to thank my colleague from Minnesota, Senator WELLSTONE, who offered the underlying rollup amendment on my behalf last night, so that I could offer a second-degree amendment to that amendment. I thank him for his willingness to accommodate me on a procedural matter.

Mr. President, I am willing to withdraw my amendment today, in order to help my friend from Louisiana advance this legislation. I also believe the unanimous-consent agreement we've worked out will greatly advance the prospects for seeing the rollup provisions adopted as part of the GSE legislation.

As my colleagues know, the rollup measure was passed overwhelmingly by the Senate just a few weeks ago, as part of the bill to reform Government-sponsored enterprises. Eighty-seven Members of this body voted against a motion to table the amendment. That's 87 Senators who supported this measure. And yet, my friend from Texas decided that the wishes of 87 of his colleagues—and, I might add, the wishes of millions of investors througout this country—should be disregarded, because he does not like the measure.

He has indicated in the past that he would do everything possible to prevent rollup reform from becoming the law of the land. And, so, he raised procedural roadblocks to a much-needed bill to reform Government-sponsored enterprises—a bill which passed by a vote of 77 to 19, and which also contains provisions on lender liability and a host of other carefully developed provisions supported by our colleagues.

Mr. President, I felt I had no other choice but to offer this amendment gain last night, and let the Senate work its will yet another time. But, as my colleagues know, last night, after I offered the amendment, my friend from Texas indicated that he would offer the crime bill and other matters to the energy bill—again in an effort to thwart the will of the Senate and prevent the rollup bill from becoming law.

We made an attempt to work on the problems he identified in the bill, and last night, I thought we had an agreement. But this morning, my staff was advised that Senator GRAMM had asked that the entire dissenters rights provisions of the bill be dropped—and made into a study. It was represented to us, quite simply, that the case had not been made. I would remind my colleague that the dissenter's rights provisions are the provisions designed to prevent limited partners who vote against a rollup from having a bad deal literally crammed down their throats. No one can say, after reviewing the record of abuses in these transactions, that the case has not been made for protections in this area. So, of course, I could not agree to drop these important provisions.

Mr. President, the Limited Partnership Rollup Reform Act was introduced over a year ago. There are now 74 Senate cosponsors.

My colleagues and I have received thousands of letters on this issue. Our constituents—not special interests, but small investors in our States—have documented a long record of abuse in limited partnership rollups. They have been ripped off, they are mad and they are upset. They have asked for our help.

And, yet, we are told, the case has not been made for action.

Mr. President, I am deeply disappointed that we have not been able to enact this measure at this time. However, I want it to be clear that this issue will not go way.

I believe that the action we took today will advance considerably the chances of enacting this bill.

I am satisfied that with this unanimous-consent agreement, we will be able to revisit this legislation before adjournment this year and pass this legislation, which goes a great distance to protect small investors. There are approximately 8 million small investors in limited partnerships, many of whom have invested a great share of their savings in these arrangements. Many of those people are in jeopardy today, and until we pass some legislation that offers protection to them, they will remain in jeopardy.

I will do my very best to see that the legislation is adopted, and the unanimous-consent agreement provides us the chance of doing that.

Again, I want to thank my two good friends from Louisiana and Wyoming and apologize for causing them any delay in the consideration of a very

good bill that they have brought to the floor. I hope we will be able to pass this energy bill very briefly and move on to other matters. I thank them for their patience and consideration and for their help in bringing us to the point where we have been able to adopt this unanimous-consent agreement.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I thank the Senator from Connecticut very much and strongly support him in his rollup legislation.

Mr. President, I have made some study of this rollup legislation, and I can tell him that it is, in my judgment, an outrage the kind of skin game that is going on with some of those who wish to take advantage of rolling up, that is, combining, collating these real estate partnerships, putting them together under one partnership and using it for the benefit of the corporate head who takes it over rather than for the benefit of the stockholders.

I will certainly help him on another piece of legislation wherever it may be. But I thank him for working out the procedure by which he will consider that matter on another bill.

Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the committee substitute to H.R. 776.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I wonder if I might engage in a colloquy with the chairman of the committee regarding jurisdiction of the EPW Committee with respect to EPW issues in the House bill. There are provisions in the House energy bill which very directly deal with the jurisdiction not of the Energy Committee but of the Environment and Public Works Committee.

I compliment the chairman on his bill for going the extra mile to come up with a bill basically staying with the jurisdiction of the Energy Committee. I am wondering if the chairman of the committee would consent to the two EPW members—which I know the chairman has already agreed to with respect to the nuclear provisions, the jurisdiction of the EPW committee—to also agree that those two members, the chairman of the committee, Chairman BURDICK, and Senator CHAFEE will be conferees with respect to—and I can name them here—several sections of the House bill which deals directly with the jurisdiction of Environment and Public Works Committee. I could read the sections, but they have to do essentially with carbon dioxide emissions controls, language taken directly from the Clean Air Act, also in the House bill legislation, which is essentially language in a bill introduced on this side which was referred to the EPW committee.

I can go over the sections with the chairman if he would like to. But I would just like to ask the chairman what he intends to do with respect to those provisions.

Mr. JOHNSTON. Mr. President, first of all, as the Senator from Montana, my good friend, knows, I have made every effort to fully cooperate with both him and the Environment and Public Works Committee.

Just to recount, we had a waste oil provision that we felt strongly about on the committee but that the Senator from Montana also felt strongly about. He asked that we drop that, and we did. There was another provision with regard to WEPCO, which was in the bill and had cleared the committee but the Senator felt strongly about that and we dropped that.

I mention that simply to point out our desire in passage of the bill to accommodate the EPW Committee. Now that the bill has passed—and by the way, Mr. President, we have appreciated very much the leadership of the Senator from Montana and his help on the committee. He has been very helpful. It has been really a team effort in that respect.

Now when it came to conferees, Mr. President, the usual procedures on a conference is that the committee who has handled the bill, the one to which the bill has been referred, appoints the conferees. But because we had received a request from the Environment and Public Works Committee, as well as the Commerce Committee and the Banking Committee, who had a great interest in the bill, I had agreed—I had not spoken for the Republican minority, but from my own standpoint as chairman—to have a member appointed, the chairman and ranking minority member of each of those committees, to serve on the conference and was not going to contest that at all. And as a matter of fact, I think that their presence there will be helpful. I have suggested that not out of recognizing their right to do so,—because even though matters might be in their jurisdiction, it is not necessarily a custom to do that—but I think it is a good custom to do it and it has been followed in some cases.

Now with respect to the particular matters at issue, for example, the so-called global warming matter is a highly contentious matter. The question of where that jurisdiction resides is, I do not know whether it is disputed or whether it is joint between the Energy Committee and the Environment and Public Works Committee, but in any event it is not in the Senate bill. And the House provision is a rather innocuous provision, as I recall. It may still be highly contentious, but from my standpoint it is rather innocuous.

Suffice it to say that I could not agree to that particular measure without, in my view, having a big fight over a relatively small matter. Since it is not in the Senate bill, I do not think it is any precedent; in other words, I am not attempting to resolve that question of whether you have jurisdiction or do not have jurisdiction over that particular measure. But I hope the Senator would let us go forward with the up-front offer of the chairman and ranking minority member on those principal measures in which he has an interest and let us go forward without global warming.

Believe me, global warming is so exceedingly contentious. Frankly, I do not understand why it should be so contentious. I would be willing to do some things in global warming perhaps that my other colleague from Montana would not be willing to do. But we are not going to solve or prevent from solution the global warming problems in this measure. My guess is that global warming will not end up in the final report. That is just my guess, because it is not worth fighting over and would probably provoke a good big fight.

So what I am asking of my dear friend, who has been so helpful on this bill, is that I hope he will recognize that I had tried my best to be cooperative with EPW. And I hope that is a relationship that will continue, and I am sure it will, at least from our standpoint, and I am sure it is from the standpoint of the senior Senator from Wyoming. But I hope he will let us move forward without provoking what I think might be a difficult sticking point over a small matter.

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

Mr. BAUCUS. Mr. President, I appreciate what the chairman of the committee has just said. I must say, these are not innocuous, small matters. Let me read the provision of the House bill, on page 485, section 1317. The title "Early Banking of Emissions Credits for Efficiency Improvements from the Application of Clean Coal Technologies." It goes on to say:

> The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations within 18 months after the date of enactment of this section to establish baseline emissions of carbon dioxide from existing utility sources that apply clean coal technologies. For purposes of the preceding sentence, baseline emissions for sources subject to title IV of the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance * * *.

That is the Clean Air Act. That is pretty basic, to establish baseline emissions of carbon dioxide. If anything is in the Environment and Public Works Committee, it is the Clean Air Act—anything in the jurisdiction of the committee. This is language referring directly to the Clean Air Act.

I can go on. The other sections are 1604 and 1605 with respect to CO_2 and global warming. Again, it directly refers to the Clean Air Act and emissions

trading which is the heart—one of the cornerstones of the Clean Air Act we just passed not too long ago. I am not saying they are not partially within the jurisdiction of the Energy Committee. I am not competent to address that question. I certainly am competent to address the question of whether they are in the jurisdiction of the EPW Committee. It is clear they are. In fact, the language, which I will read if the Senator would like me to read it with respect to sections 1604 and 1605, is language in a bill which was referred to the Environment and Public Works Committee.

I am not asking for more conferees. I am just asking that the two conferees from the EPW Committee be able to conference not only on the nuclear energy portions with respect to the jurisdiction of the EPW Committee but also conference on these issues. I mean the chairman—he may be the chairman of the conference. I do not know. Certainly, the chairman of the Senate conferees.

There will be other conferees there in addition to the two conferees from the Environment and Public Works Committee, which is to say the chairman will certainly have more than his say in the conference, as it should be. We are just asking the chairman of the committee and the ranking member of the committee at least be able to sit down and attend the conference with respect to issues within the jurisdiction of their committee.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I would say to my friend from Montana, one of the things he well recognizes about the bill and its passage through this House in the first place was that we tried very hard to make it an energy bill, energy conservation, energy production bill. And we tried equally hard and equally successfully to keep it from being a Clean Air Act, a Clean Water Act, or any such thing. It was an energy policy bill.

I have to say if this bill should come back from conference with carbon dioxide credit systems and global warming and other kinds of things, we will not have, as close as we have come, an energy policy. I just feel that strongly about it.

This bill should come from conference as it goes to conference from the Senate, as an energy policy bill and not an environmental bill. To confuse those things will be to dilute the efforts that we have so steadfastly pursued in trying to make a balanced bill both from the standpoint of production and conservation.

There are environmental benefits from the conservation provisions of this bill. Make no mistake about it—enormous environmental consequences to the benefit of the country. But for us to get wandering off into the Clean Air Act, Clean Water Act, or other agencies of Government, would be a dreadful mistake, and it would mean for the first time that the Senate and the House, the Congress, got close to making energy policy and sought to sacrifice that on some other alter.

So I just lay down my strong opposition to the request of the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I do not quite understand the Senator from Wyoming. On the one hand, I hear the Senator from Wyoming saying he wants this to be an energy bill, not an environmental bill.

On the other hand, the Senator is saying he objects to EPW being a member of the conference with respect to EPW matters.

Mr. WALLOP. If the Senator would yield, we have agreed to a level of involvement for the Environment and Public Works Committee here. That has been crafted by the Senator from Louisiana and I presume with the chairman of the Environment and Public Works Committee.

Mr. BAUCUS. Mr. President, might I ask the chairman and ranking member of the committee if they might be interested in an alternative course here? That is to state they will resist in conference these provisions of the House bill? That is those that deal with jurisdiction of the Environment and Public Works Committee? That would be, essentially, sections 1317 dealing with CO_2 emissions banking; sections 1604 and 1605 with respect to carbon dioxide and global warming, emissions; and portions of section 2121 dealing with pollution prevention.

Mr. WALLOP. That has an absolute commitment from the Senator from Wyoming on those issues.

Mr. JOHNSTON. Mr. President, I am becoming reacquainted here with those sections. We have a provision in our bill with respect to least cost planning. The Secretary would prepare a least cost plan, taking into consideration CO_2 emissions. I think that is more of a general—that is no baseline for the Clean Air Act, that is for least cost planning for utilities, I believe, and for the Nation as a whole.

So that part is in the Senate bill. And I think that part was within our jurisdiction and I do not believe would be within your jurisdiction.

I think those other matters with regard to Clean Air Act, it would certainly be my inclination, not understanding them very well, but, clearly, to resist those as I have said earlier. In other words, I have no agenda to seek those out and pass those. That is my inclination. If you will trust me that I am not fully acquainted with all of the intricacies of them—that is my general feeling.

And my friend from Wyoming, you have heard him state in very clear terms—I think he probably is more acquainted with these provisions than I. If he feels very strongly about it, I am sure that means we would both resist them.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. If the Senator from Montana would yield again, it is clear that these are public parts of that legislation, and the Senator's view on them is easily transmitted to either of us. I appreciate particularly the view that I just heard expressed by the Senator from Montana on those particular issues.

So my own recommitment is yes, I will resist that.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, with the commitments given by the Senator from Wyoming, and as I understand the commitment given by the Senator from Louisiana, namely, to resist those sections in the House bill that I mentioned particularly insofar as they refer to the jurisdiction of the Environment and Public Works Committee—and I do believe that is the understanding that I have from him, the Senator from Louisiana—I would be inclined to no longer resist the Senate going forward with this bill.

Might I again clarify the intention of the Senator with respect to those sections? Is the Senator saying in conference he will resist those sections that I indicated?

Mr. JOHNSTON. Mr. President, I am not trying to hedge my response. I am simply trying to tell the Senator I do not fully understand the three provisions.

But it is my feeling at this point that is exactly what I would do; that is, resist those. Let me put it this way: If there would be any change in attitude, I would certainly consult with the Senator from Montana. And I do not know why there would be a change in attitude. Also, you have to understand that, in a conference, I do not know how strongly the other side would be pushing for these matters and whether it would be a deal breaker if we did not go along with some language. I am sure that is not the case. But with that caveat, I can say, yes, the Senator has accurately stated my position.

Mr. BAUCUS. Mr. President, with that understanding, and I appreciate the comments of the Senator from Wyoming and the Senator from Louisiana, I will not resist the Senator going further on this bill. But it is important to realize that if the House were to press these issues that the Senate conferees do resist them. And I also understand the chairman will consult with me, and appropriate members of the committee.

Mr. WALLOP. If the Senator will yield, should it be we cannot resist forcefully enough and they come back

here with it, I will join with the Senator.

Mr. BAUCUS. I thank both Senators.

The PRESIDING OFFICER. Is there further debate?

Mr. WALLOP. Mr. President, I ask unanimous consent that the one remaining amendment that was part of the unanimous-consent agreement entered into last night, the amendment from the Republican leader, Mr. DOLE, on solid waste disposal and phosphoric acid, be dropped from that list.

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

Mr. WELLSTONE. Mr. President, let me begin by expressing my appreciation to the chairman and ranking minority members of the Senate Finance Committee and the Senate Energy Committee for their leadership and cooperation during the Senate consideration of H.R. 776. They have successfully navigated a comprehensive energy package through the Senate, one which now includes some important tax provisions to complement the Senate's action earlier this year on S. 2166.

Of particular importance are the provisions of title XIX, the new Finance Committee provisions, which assist energy conservation and renewable energy technologies. These provisions extend existing tax credits which expired at the end of June, and authorize new tax incentives for both renewable energy and energy efficiency technologies. Earlier this year, I joined with a number of my colleagues in urging the Finance Committee to adopt these provisions because of their critical importance to the continued existence of a renewable energy industry in our country.

The provisions in title XIX regarding coal miners health care also of particular importance to me. The efforts of my distinguished colleagues from West Virginia and Kentucky—Senator ROCKEFELLER, Senator BYRD, and Senator FORD—in securing positive action to protect the health care benefits of retired miners and their dependents has resulted in a major accomplishment. I strongly encourage the Senate conferees to insist on retaining these provisions in the final legislation.

Mr. President, despite these positive accomplishments, this legislation still retains many negative features. Earlier this year, I expressed my concerns with the provisions of S. 2166 which are now incorporated into H.R. 776. At that time, I explained my vote against final passage of the bill at some length. In part, I explained:

When all is said and done, I believe that while this bill has been improved, it still retains serious flaws. It violates many of the principles I believe are important, principles of public participation in decisionmaking, principles of protecting the consumer and taxpayer, principles of preserving due process for farmers and ranchers. Further, on balance S. 2166 proposes too much support for nuclear power and coal, and too little for renewable energy and efficiency. Finally, I cannot defend this legislation as representing an energy policy which responds to our most urgent problem—global climate change.

In deciding how to cast my vote today, I take particular note of the new provisions which are before the Senate for the first time—the provisions reported by the Senate Finance Committee. Again, I believe that in deciding my final vote I should examine these provisions in their totality.

While the Finance Committee's title has some very positive provisions, on balance it still represents a continuation of the status quo—it supports continued use of fossil fuels more than a transition to renewable energy sources. It provides some $400 million in tax incentives for renewable energy sources, but gives new tax breaks to the oil and gas industry worth over $1.5 billion—tax breaks which I joined Senator BRADLEY in trying to strike from this bill. The tax benefits for the oil and gas industry counterbalance all of the title XIX's provisions for solar energy, windpower, biomass fuels, alternative fuels, energy conservation, and increased transit ridership combined.

These new tax provisions will effectively make a bad situation somewhat worse. A study conducted by the Center for Renewable Resources in 1985 concluded that existing Federal laws, particularly the tax laws, provide major subsidies for nuclear power and fossil fuels and far less support for renewable energy sources. That study concluded, for example, that the annual subsidies for nuclear power amounted to some $15.56 billion, those for oil production totaled $8.58 billion annually, while renewable energy sources received only $1.7 billion per year.

In its totality, therefore, this bill's provisions continue to support fossil fuels and nuclear energy more than energy efficiency and renewable energy sources. For this reason, I will cast my vote against H.R. 776 on final passage.

Perhaps in the future, the Congress will see fit to begin unraveling the complex laws which subsidize fossil fuels and undermine investments in energy efficiency and renewable resources. This bill does contain a provision which I believe could lay the groundwork for progress in this direction.

An amendment I offered to S. 2166 which was adopted by unanimous consent, and which Representative SIKORSKI successfully offered to the House bill, requests that the National Academy of Sciences conduct a complete study of how the government distorts the energy marketplace.

Specifically, this provision directs DOE to contract with the National Academy of Sciences to prepare a study quantifying past and present direct and indirect subsidies for different energy resources. This study grew out of the response I received last summer to questions I had submitted to the Department of Energy.

In testimony before the Senate, Energy Goals Act Hearing July 18, 1991, the Department of Energy agreed that a broad range of Government actions impact the production and consumption of energy. But, DOE has not conducted a study of energy subsidies, nor has it updated earlier studies. Yet, DOE criticized earlier studies for their very biased view of Government action in the energy marketplace.

What those previously attempting the task of quantifying energy subsidies have concluded is quite astonishing. In the 1970's the Battelle Memorial Laboratory conducted a study of energy subsidies which concluded that $252 billion was allocated to energy producers between 1921 and 1978—the bulk of which subsidized fossil fuels. In the 1980's, the Rocky Mountain Institute concluded that there were over $40 billion in annual subsidies from various laws and regulations, and again they concluded that fossil fuels received the lion's share.

These studies demonstrate the critical importance of embarking upon this discussion. The energy bill before us today might amount to several billion dollars of programs and incentives over the next 5 years. For all of our labors in producing this 1,000-page-plus new energy bill, the sum total of its influence on the marketplace will only be a fraction of what studies indicate existing subsidies already exert. In fact, the influence of existing subsidies may exceed the impact of this bill by a factor of 5, 10, or even more.

Given tight Federal budget—budgets which cannot find the money to fund essential health, education, and other programs—it is time for Congress to begin the hard job of making new energy policy by unraveling existing subsidies instead of simply adding more subsidies to the mix. If previous studies are correct, it should be more cost-effective, and more influential upon the marketplace, for Congress to address the tens of billions of dollars in existing subsidies rather than creating a few new programs to promote energy policy priorities.

To begin this process, Congress needs a starting point—that is what I hope this National Academy Study will provide. An inherent problem for any study of subsidies to overcome is the fact that what one person may view as a subsidy another person will view as a legitimate business expense. Therefore, it is imperative that any such study be conducted by an impartial group, one which takes no ideological stance for or against on energy source or fuel. Impartiality is essential if any such study is to be an effective policy instrument. In my view, the National Academy of Sciences has such a track record of impartiality and its work product will

have widespread credibility. Moreover, a thorough examination of energy subsidies will require a great deal of sophistication. Unraveling the actual market distortion of various tax provisions, regulatory laws, agency programs, and other Government actions will demand the type of expertise which the Academy embodies.

Mr. President, virtually every energy interest group testifying before the Senate Energy Committee told us they only wanted a level playing field. In fact, I believe that if one took the time to look back through the Energy Committee's hearings over the past decade one would find they have been asking us to give them a level playing field for many years. This provision, therefore, may be the only provision of this bill which responds to the requests of every interest group. This amendment will give us the information we need to discover where the level playing field really lies.

While I cast my vote against this bill because the tax provisions continue subsidizing fossil fuels over renewable energy sources, I do wish to call to the attention of my colleagues this important provision. A provision which I hope will help future Congresses begin to make a fundamental change in energy policy, to begin a transition away from fossil fuels and toward energy efficiency and renewable energy technologies, and to do so in a fiscally responsible and economically efficient way.

Mr. BRADLEY. Mr. President, when we moved to the energy bill yesterday, there was circulated a long list of amendments. While these amendments covered the widest variety of issues, both relevant and irrelevant to the underlying bill, one area not covered was natural gas prorationing. This issue, which sounds technical and arcane, is anything but. It's volatile, intensely controversial, and has spawned—unknown to many of my colleagues—some of the sharpest vitriol associated with this bill.

At the center of the energy bill is a new and greater commitment to natural gas. We streamline pipeline siting and promote natural gas vehicles. We open the door for increased gas use in electric utilities and industry. Wherever you look and however you analyze it, you will see in this bill an endorsement of natural gas as a fuel of choice for America's future.

Mr. President, this bill represents a logical step. The Congress has for almost 15 years pushed to create competitive markets for gas. With each legislative step, we've dismantled another part of the huge regulatory machine that controlled gas markets for decades. Today, we're doing things much differently than we did even a decade ago. We don't have price controls. We don't have the Fuel Use Act. We have a gas transportation system that's open access. We have direct price negotiation between the customer and the producer. We have competition between gas producers for market share. We have abundant supply. We have low prices.

It is in this context that I first became aware and, ultimately, alarmed about the issue of natural gas prorationing. Prorationing is an issue that, although esoteric, is as old as the oil business. In the dawn of the oil business, wellfields in Pennsylvania and Ohio were quickly drained by oil producers who had no way to protect their fields. Under the rules of capture which governed property rights, mineral production was a use-it-or-lose-it proposition, with each driller racing to exhaust a shared reserve. Prorationing, which established and protected correlative rights, was a natural and appropriate response to this oilfield free for all. And the same, legitimate rationale for prorationing is applicable still.

The problem that I discovered, however, had three aspects. First, a series of so-called reforms in prorationing were proposed last fall. Some of these reforms were implemented this past spring. Three States—Oklahoma, Texas, and Louisiana—were in the forefront. These three States also represent over 50 percent of domestic natural gas supply.

Second, the rhetoric and public statements of many officials and oilmen were unambiguous and threatening. When the Energy Committee held a hearing on this on June 18, I submitted for the RECORD some 12 pages of quotes from the press that stated that the prorationing effort had a simple goal. Accordingly to one headline, all these reforms were, "motivated purely by price."

Third, the gas market itself seemed to back up this tough talk. Prices were historically low in January and February. Four warmer than expected winters and a national recession had taken a toll. Most analysts pointed to an anemic spring market, since almost without exception the slackened demand that accompanies warmer weather means even lower prices. But this did not happen. In fact, the opposite, the improbable occurred: prices shot up. The price for May deliveries of gas shot up 30 percent in just 6 days in mid-April.

Naturally, the thought of State-sanctioned price controls is abhorrent. We have not worked for 15 years to free markets for gas so that they can be manipulated by a few States. Mr. President, these concerns were not mine alone. Last May, 34 Senators endorsed an investigation of these developments. In the House, the Markey-Scheuer amendment was adopted by a strong majority of Members. This amendment attempts to balance Federal and State powers and make price manipulation by States illegal.

I know there has been a lot of interest as to whether I would pursue a similar amendment here on the Senate floor. Given my interest and obvious concerns, such an action would be a natural event. But I will state today that I will forego at this time the pursuit of any such legislative remedy.

Let me state quite clearly why I have made this decision. For the record, I remain skeptical. First, I believe the Oklahoma prorationing law is bad for gas producers, and consumers. It targets only large wells and all large wells. It also targets seasonal purchases by utilities that are trying to buy gas in the period of lowest prices and demand. Second, I remain concerned that should these three States begin to coordinate cutbacks, we could easily see price manipulation that could threaten our national interest and consumers. Lastly, I am not convinced that existing law provides a legal remedy for aggressive actions taken by the producing States' regulators. Following last month's Energy Committee hearing, I sent a detailed set of questions to the Department of Energy on this issue. I have not received a reply.

Mr. President, my concerns remain. But I'm willing to hold off. As a result of my involvement with prorationing, I have had extensive conversation with the key regulators. While the threat of many States working together remains, I cannot conclude—given the direct conversations I have had—that this is the goal or intention of many of those involved. The chairman of the Texas Railroad Commission, Lena Guerrero, and I have discussed this at length. I respect her and I trust her. Her words have made an impact on me. She could not be stronger or more clear. She has stated forcefully the position of the TRC: Their prorationing reforms are not targeted at the consumer, as indeed there are many gas consumers in Texas. Rather, she is certain that the adopted regulations—as opposed to some of the proposals that have been discussed at times—will remain a straightforward and necessary updating of Texas prorationing authorities.

I have had conversations with other legislators. Shortly after the Oklahoma statute was enacted, Congressman SYNAR called me directly to address my concerns. I believe he and others will work to see that we don't backslide into a system of production controls or a natural gas cartel.

On account of this reassurance, I do not see a reason to push ahead at this time. As I said, I do have some remaining skepticism. I have concerns. But I will wait both to see how the conference committee deals with the issue, and to see how the producing States implement their prorationing proposals. For the moment, at least, the advocacy of their representatives leads

me to give them the benefit of my doubts.

REINSURANCE EXCISE TAX

Mr. SYMMS. Mr. President, during the Finance Committee markup of the energy bill, an amendment was added which would increase the tax on reinsurance purchased from foreign companies. U.S. insurance companies have opposed similar amendments over the past 2 years and are opposed to this amendment. The rate increase will raise the cost of reinsurance sold to consumers. In the current economic climate, there is no justification for Federal action which would increase insurance costs.

I am also concerned about the impact of the amendment on our relations with foreign countries. The United States has negotiated waivers of the excise tax with more than a dozen countries. Those treaties reduce the rate to zero on our treaty partners. However, a foreign reinsurer would nonetheless pay a 1 percent tax, not zero, even if it qualified under the new rules. More recent treaties provide a waiver of the tax, but reduce the benefit of the waver if a foreign reinsurer places reinsurance in third countries that do not have similar waiver in their U.S. tax treaties. The amendment would add a new three-part test for loss of the treaty benefit, in place of the one negotiated in the treaties.

If foreign governments are to rely upon these treaties, we must respect and abide by the terms of the treaty. Adopting a new test after ratification of these treaties will disrupt relations with our trading partners, and impair the ability of the U.S. Treasury to negotiate favorable terms for our multinational companies doing businesses abroad.

Only a few jurisdictions appear to be the target of this measure. But we have no assurance that they are the only ones affected. I am very reluctant to impose a legislative solution to a problem which may be of very limited dimension. I am even more wary of adopting a measure that disrupts relations with our major trading partners.

An energy bill is a strange place to impose a tax on insurance companies. Indeed, the proposal originated in a recently introduced House tax bill, which was just the subject of hearings in the House and never in the Senate. In the view of the strong objections of U.S. insurers, we ought not act in haste, without fully understanding the impact of these actions. I urge the conferees to reject this proposal so that we do not adversely affect domestic companies and their policyholders.

EXEMPT BOND VOLUME CAP FOR HIGH SPEED RAIL PROJECTS

Mr. MACK. Mr. President, high-speed rail technology has proven itself in many industrialized countries throughout the world today. In fact, both the French and the Japanese have developed and currently run high-speed trains. High-speed rail offers a clean, efficient alternative to other forms of mass transit. Yet, the United States, which formerly has enjoyed the status as leader in transportation technology, now finds itself not only lagging behind our foreign neighbors but hindering our States ability to fund such public projects.

The bond volume cap amendment does not ask for any unique or unprecedented exception to law or policy. It simply extends the same benefits available to States for funding other public projects such as airports, seaports, and solid waste disposal facilities to high speed rail projects.

This change makes sense and is long overdue. I am pleased that my colleagues have joined in support of this amendment.

INCREASING THE TAX-DEDUCTION FOR THE SELF-EMPLOYED

Mr. MACK. Mr. President, I wish to clarify my position in support of Senator SPECTER's amendment offered yesterday on the floor which would permanently increase the tax deduction for health insurance costs for the self-employed from 25 to 100 percent. This increase makes insurance more affordable for self-employed individuals and their families by granting them the same 100 percent deduction for health benefit costs currently granted to large businesses.

I have consistently supported this provision which provides for fairness in the business community. This measure is contained in S. 1936, the Senate Republican health care task force bill of which I am an original cosponsor. In addition, this provision is included in the small business bill I introduced, S. 2727.

I want to make one thing clear about my support of this amendment, however. I find it troubling that this body has forced upon itself rules which hamstring our ability to enact good policy. My vote in support of this amendment reflects my support for raising the health insurance deduction as opposed to the revenue provisions used to pay for it.

COAL HEALTH BENEFITS PROVISION—AMENDMENT NO. 2787

Ms. MIKULSKI. Mr. President, I am glad to see that the Senate has reached a compromise that will protect retired coal miners' health benefits without imposing an unfair tax on the coal industry. This compromise is good for the retirees, but it also is good for coal miners in Maryland and elsewhere who were threatened by the original tax that was proposed.

Coal mines in Maryland were clearly threatened by a planned tax of up to $1/hour, possibly more, on nonsignatory companies that would help pay for retirees' benefits. That proposal was unfair: it asked companies that were treating their employees fairly and keeping their promises to pay for someone else's problem. And if it went through, it would have hurt Maryland's coal mines and cost us jobs—both in western Maryland and in the Port of Baltimore, through which coal is shipped.

That's why I worked with Senator ROCKEFELLER this spring to help Maryland get a fair deal. I told him I wanted to help him protect the retired miners in Maryland and across the country. But I also told him that I could only back him up if he promised to help the nonsignatory mines in Maryland. These mines never were involved in the agreement that the Bituminous Coal Operators Association made to their employees, and they shouldn't have to take on an unfair share of the burden to help the BCOA keep its promises.

Senator ROCKEFELLER did help Maryland and other States, and has crafted a proposal that is fair to all coal mines and their workers. I want to congratulate Senator ROCKEFELLER for his dedication and his hard work. Without him and without his genuine concern, 120,000 coal miners and their families would be losing their health care next year. I'm happy to endorse this new agreement, and to see that coal miners will keep the benefits they earned. I'm also glad that no coal-related jobs are threatened in Maryland or elsewhere.

I support this compromise and I encourage the House of Representatives to join in endorsing it.

ETHANOL USE AND THE FUTURE

Mr. KERREY. Mr. President, I am pleased to announce that the percentage of gasoline sold in Nebraska containing ethanol reached an all-time high in 1991. This represents the highest State average in the Nation. By volume, over 350 million gallons of 10-percent ethanol blended fuel were sold in Nebraska in 1991, accounting for 45 percent of all gasoline sales, according to the Nebraska Gasohol Committee.

Nationally, ethanol blended fuels accounted for over 8 percent of all gasoline sold in 1991.

This is a good indication of consumer acceptance of ethanol blended gasolines and a recognition of the environmental and economic benefits of ethanol.

This good news comes at a time that we are awaiting a decision by the U.S. Environmental Protection Agency [EPA] on Clean Air Act regulations concerning reformulated fuel standards and oxygenate requirements. The proposed rule could seriously hamper the use of ethanol in ozone nonattainment areas, and thereby limit the use of domestically produced renewable fuel.

In recent months, I have joined other Senators and thousands of citizens from the Midwest and elsewhere in an effort to ensure that EPA follow through on Congress' intent in writing the Clean Air Act amendments that ethanol qualify under these programs.

Recently, even the President indicated that he was supportive. We are still awaiting an EPA decision and I hope that the Congress will not have to readdress this issue in the coming year to ensure that the administration follows through on our intent.

I am pleased that the Senate today passed the Comprehensive National Energy Policy Act (H.R. 776), which includes a provision authored by Senator DASCHLE that would encourage the use of ethanol to meet oxygenate requirements mandated by the Clean Air Act of 1990. Currently, the excise tax exemption of 5.4 cents per gallon is limited to fuels containing 10-percent ethanol by volume. Under the bill's provision, ethanol blenders would be allowed a 4.1-cent-per-gallon tax exemption for a 7.7-percent-by-volume ethanol blend, and a 3-cents-per-gallon exemption for a blend of 5.7-percent-by-volume ethanol blend. This will partially respond to some of the concerns raised about whether ethanol will be able to participate in the Clean Air Act's programs as Congress clearly intended, though it by no means removes the regulatory obstacles faced by ethanol. I urge the conferees to work to see that this provision is included in the final version of this energy legislation.

A VOTE FOR UMWA RETIREES

Mr. WARNER. Mr. President, the national energy strategy legislation now pending Senate passage contains a landmark financing package for the troubled retiree health insurance program of the United Mine Workers of America [UMWA].

This is good new for nearly 10,000 Virginia retirees and their families. As recently as 3 weeks ago, a related financing scheme for an industrywide coal tax was dead in the water. With the active support of President Bush, however, we have reached a new funding agreement.

Under the legislation, UMWA retiree health costs will be assigned to both present and former members of the Bituminous Coal Operators Association [BCOA], depending on the length and time of employment as recorded by the Social Security Administration. For those orphan retirees for whom former employers no longer exist, they too well be assigned on a proportional basis.

Major financial support will come immediately to the UMWA health funds by a transfer of $210 million from the UMWA pension fund over the next 3 years. Additional costs for 1996 and beyond will be covered by transfer payments from the Federal abandoned mine lands [AML] fund.

Virginia UMWA retirees should sleep better tonight knowing that the Federal Government has stepped in to restore their health insurance program. In the long term, the entire coal industry will be sacrificing to assure the continued delivery of these benefits. We revere those who have worked in the coalfields, however, and the 40-year promise of these benefits has been our overriding concern.

Mr. WALLOP. Mr. President, so far as I know, with resolution of the issue of rollups, there are now no further amendments that can come before us. I say to my friend that I hope he does, and if he does not, I will, ask for the yeas and nays on this bill. I think Senators are entitled to it. I will have just a few remarks after the chairman before we go to a vote.

Mr. JOHNSTON. Mr. President, I had previously made some remarks about this bill in one of those many down times we had, which the press is free to quote from as if I said them at this more propitious time.

In any event, Mr. President, it has been, of course, a pleasure working with my distinguished ranking minority member and with the staff. I will not go further with congratulations than that, since we have had so many fits and starts in this bill and since the conference will be a long and difficult one.

There are well over a thousand pages in this bill. I would not want to count the number of pages that finally come out of this bill as finally passed, but there are well over a thousand pages. There are many highly contentious matters. There are some potential deal breakers in this bill.

I say that not to reflect pessimism at all, because I also think, on the other hand, that the demand of the country for an energy policy is very, very strong. The President of the United States is for this bill, the Speaker of the House is for this bill, the majority leader of the Senate is for this bill, the Democrats are for it, the Republicans are for it, the country needs it, and I say woe to him who stands in the way of passing this bill which is strongly needed by the American people.

I do not believe people are going to try to stand in the door of progress in this bill. And, on the other hand, I sound the alarm of concern that we have a long way to go to get this bill passed.

From my standpoint, Mr. President, I hope we can have a first meeting of the conference early next week, if that meets with the schedule and desires of the distinguished Senator from Wyoming.

I hope that meets with his schedule. We plan to get this bill out, I hope, quickly and decisively for the American people.

I thank all Senators and especially the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I obviously return my thanks and admiration to the Senator from Louisiana, the chairman of the committee, who has done an absolutely masterful job, not once now, but twice on this floor getting us to this point. The bill was balanced when it passed the Senate the first time 94 to 4. I believe that we have preserved that balance after the current debate and perhaps even strengthened it with some of the Finance Committee provisions.

I am confident that we can maintain that balance through the conference. I commit to doing it, and I say that it is extremely important to maintain that balance.

I am confident, as is the chairman, that we can reach agreement, if the philosophy is to produce a consensus agreement in the national interest and not to produce a political statement

We have not allowed partisan politics to dictate what we have accomplished, and that is one of the rare accomplishments, I say to my friend from Louisiana, that he has managed to do. We have, even through it has been an election year, been able to achieve that, and we must assure that the result of the conference is as bipartisan as has been the result of the separate debates that have taken place in this House.

I say to my friend also, and those who were involved in the most contentious issues, this Senator, for an entirely different reason, is extraordinarily grateful that we were able to resolve this matter. I say to my friend in the Chair, who understands these things quite well, on tomorrow I go back to my home State of Wyoming to celebrate with the rest of my family our centennial on our ranch in Wyoming. For us, hat was a matter of such import that, had we not settled the energy bill, I still would have gone. So I am most grateful to have been a part of this final thing. I will not delay it any longer lest somebody contrives some genius senatorial way to get in our way.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that a list of acknowledgements of the majority and minority staff who have worked so diligently be printed in the RECORD, as well as two members of my personal staff who have been so instrumental in achieving this.

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

COMMITTEE

Rob Wallace, Gray Ellsworth, Richard Grundy, Jim Beirne, Marian Marshall, Judy Pensabene, Howard Useen, Jim O'Toole, Gerry Handy, Carol Craft, Gigi Beall, Kelly Fischer.

Michael Hoon and Jodi Brayton, personal staff, and the majority staff.

The PRESIDING OFFICER. If there be no further amendment to be pro-

posed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—93

Adams	Ford	Metzenbaum
Akaka	Fowler	Mikulski
Baucus	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Bradley	Grassley	Pell
Breaux	Harkin	Pressler
Brown	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Riegle
Burns	Hollings	Robb
Byrd	Inouye	Rockefeller
Chafee	Johnston	Roth
Coats	Kassebaum	Rudman
Cochran	Kasten	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Craig	Kerry	Seymour
Cranston	Kohl	Shelby
D'Amato	Lautenberg	Simon
Danforth	Leahy	Simpson
Daschle	Levin	Specter
DeConcini	Lieberman	Stevens
Dixon	Lott	Thurmond
Dodd	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wirth
Exon	McConnell	Wofford

NAYS—3

Durenberger	Smith	Wellstone

NOT VOTING—4

Burdick	Jeffords
Helms	Symms

So the bill (H.R. 776) as amended, was passed.

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

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

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I ask unanimous consent that the Senate amendment to H.R. 776, the energy bill, be printed.

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

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed:

From the Committee on Energy and Natural Resources, for all titles except title XIX of H.R. 776 and title XX of the Senate amendment (Revenue provisions): Mr. JOHNSTON, Mr. BUMPERS, Mr. FORD, Mr. BINGAMAN, Mr. WIRTH, Mr. CONRAD, Mr. SHELBY, Mr. WALLOP, Mr. HATFIELD, Mr. DOMENICI, Mr. MURKOWSKI, Mr. NICKLES, and Mr. BURNS.

From the Committee on Governmental Affairs, conferees for subtitle B of title VI of the Senate amendment (Federal energy management): Mr. GLENN and Mr. STEVENS.

From the Committee on Commerce, Science, and Transportation, conferees for subtitles A, B, and C, of title XII of the Senate amendment (Outer Continental Shelf revenue sharing), pipeline safety issues (as contained in Senate amendment No. 2785): Mr. HOLLINGS and Mr. DANFORTH.

From the Committee on Banking, Housing and Urban Affairs, conferees for title XV of the Senate amendment (Public Utility Holding Company Act reform): Mr. RIEGLE and Mr. GARN.

From the Committee on Environment and Public Works, conferees for the following provisions of H.R. 776: section 2481 (trans-shipment of plutonium); title XXVIII (Nuclear Plant Licensing); subtitle A of title XXIX (below regulatory concern); section 3009 (exemption from annual charges): Mr. BURDICK and Mr. CHAFEE.

From the Committee on Veterans' Affairs, conferees on sections 6101 and 6102 of title VI of the Senate amendment (building energy efficiency): Mr. CRANSTON and Mr. SPECTER.

From the Committee on Finance, conferees on title XIX of H.R. 776 and title XX of the Senate amendment (revenue provisions): Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. BOREN, Mr. DASCHLE, Mr. BREAUX, Mr. PACKWOOD, Mr. DOLE, Mr. ROTH, Mr. DANFORTH, and Mr. CHAFEE, conferees on the part of the Senate.

Mr. JOHNSTON. Mr. President, with thanks to all I yield the floor.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent to address the Senate as if in morning business.

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

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 3107 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The PRESIDING OFFICER. Under the previous order the Senate will proceed to the consideration of H.R. 5517, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5517) 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 purpose.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments; as follows:

(The parts of the bill intended to be stricken are shown in brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I

FISCAL YEAR 1993 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1993, $624,854,400, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406(a).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000, *of which $26,035,000 shall be available October 1, 1993, notwithstanding D.C. Code 1-724(b)(1); and together with $1,992,000 which shall be available October 1, 1993.*

FEDERAL CONTRIBUTION FOR CRIME AND YOUTH INITIATIVES

For a Federal contribution for crime and youth initiatives in the District of Columbia, $30,798,600: *Provided,* That [this appropriation shall not be obligated or expended until the Committees on Appropriations of the House of Representatives and the Senate have approved a detailed plan as to the use of these funds] *the Mayor shall submit a detailed plan as to the use of these funds, to the Committees on Appropriations of the Senate and House of Representatives, concurrently with making the funds available for obligation.*

PRESIDENTIAL INAUGURATION

[For payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, $5,514,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 1-1803).]

Notwithstanding D.C. Code 1-1131.1(d) the United States shall reimburse the District of Columbia for its actual and anticipated expenses in connection with Presidential inauguration activities in an amount not to exceed $5,514,000 as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended, (D.C. Code 1-1132): Provided, That there is established in the United States Treasury an account to receive payments from the Presidential Inaugural Committee and other sources to be available for payment of the District of Columbia's 1993 inaugural expenses: Provided further, That sums so deposited shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable for amounts actually expended or for amounts expected to be expended within 30 days of the request for transfer: Provided further, That the District shall request reimbursement of actual obligations concurrently with transfers of funds from the Treasury account: Provided further, That all reimbursements received by the District of Columbia government, from sources other than the Treasury fund, shall be deposited directly into the Treasury fund: Provided further, That the Director of the Office of Management and Budget shall, pursuant to D.C. Code 1-1132(a), ensure that there are sufficient sums available to satisfy each transfer requested by the District of Columbia government: Provided further, That any balance remaining in the fund at September 30, 1993 shall revert to the United States Treasury.

[METROPOLITAN POLICE DEPARTMENT

[For a Federal contribution to the District of Columbia for the Metropolitan Police Department, $400,000, of which $250,000 shall be for training and continuing education programs and $150,000 shall be for a summer youth program.]

BOARD OF EDUCATION

[For a Federal contribution to the District of Columbia, $83,000, of which $43,000 shall be for an adult literacy program and $40,000 shall be for a program to teach self-discipline, motivation, and respect in public schools.]

For a Federal contribution to the District of Columbia, $1,379,000, of which $779,000 shall be for the Center for Change; $350,000 shall be for the replication of the Options School; and $250,000 shall be for the Parents as Teachers program.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

For a Federal contribution to the Department of Housing and Community Development's Home Purchase Assistance Program to develop a "Nehemiah Housing Project" on the 14th Street corridor in the Columbia Heights neighborhood, $1,140,000.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, [$140,000] *$1,000,000.*

GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER

For a Federal contribution to the Board of Trustees of The George Washington University for the construction and renovation of the George Washington University Medical Center, $250,000, pursuant to Public Law 101-590 (104 Stat. 2929), together with $24,875,000 to become available October 1, 1993, and $24,875,000 to become available October 1, 1994.

VERY SPECIAL ARTS

For a Federal contribution to the International Very Special Arts Festival, $500,000.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, [$140,000] *$2,000,000.*

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $115,591,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That $10,200,000 of the revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be available for the Mayor's youth and crime initiative, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds $10,292,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board[, of which not to exceed $400,000 of this appropriation, subject to the enactment of authorizing legislation, shall be used to reimburse the general fund for expenses incurred by the general fund during the fiscal year ending September 30, 1993, in rendering services related to the Retirement Board, including, but not limited to, determining retirement eligibility, calculating pension benefits, preparing and distributing pension checks, filing reports and related activities]: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, [$102,888,000] *$104,028,000*: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the [general fund of the District of Columbia] *District of Columbia General Fund.*

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, [$945,951,000] *$945,551,000, together with $1,523,000 to be derived by transfer from the object classes providing personal services under the appropriation heading "Governmental Direction and Support"*: *Provided*, That the Metropolitan Police Department shall maintain a force of not less than 4,889 officers and members: *Provided further*, That $188,200,000 shall be allocated for the Police Officers and Fire Fighters' Retirement Fund and $4,300,000 shall be allocated for the Judges' Retirement Fund: *Provided further*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: [*Provided further*, That $299,000 of the amount appropriated under this heading shall be available at the discretion of the Chief of Police for outside training and continuing education programs for the Metropolitan Police Department: Provided further, that $150,000 of the amount appropriated under this heading shall be available for the Metropolitan Police Department for expenses necessary for the establishment and operation of a summer youth jobs program under the direction of the Chief of Police:] *Provided further,*

That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protection Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1993, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further*, That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Fire Fighting Division of the Department: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, [$713,675,000] *$714,971,000*, to be allocated as follows: [$513,635,000] *$514,931,000* for the public schools of the District of Columbia[, of which $43,000 shall be for the Washington Literacy Council and $40,000 shall be for the Joy of Discipline Program;] *of which $779,000 shall be for the Center for Change; $350,000 shall be for the replication of the Options School; and $250,000 shall be for the Parents as Teachers program;* $98,800,000 shall be allocated for the District of Columbia Teachers' Retirement Fund; $71,995,000 for the University of the District of Columbia, of which $2,000,000 shall be derived from revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992"; $20,978,000 for the Public Library, of which $200,000 shall be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,500,000 for the District of Columbia School of Law; and $240,000 for the Education Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1993, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $886,777,000: *Provided*, That $19,015,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $227,622,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,250,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $291,299,000.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,342,000, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)).

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $5,514,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,682,000.

TRAUMA CARE FUND

To establish the Trauma Care Fund, $10,000,000, to be derived by a one time transfer from the Water and Sewer Enterprise Fund, to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year.

FURLOUGH ADJUSTMENT

Each agency, office, and instrumentality of the District, except the District of Columbia Courts, shall furlough each employee of the respective agency, office, or instrumentality for one day in each month of the fiscal year ending September 30, 1993, or a proportional number of hours for part-time employees. The personal services spending authority for each agency, office, and instrumentality sub-

ject to this section is reduced in an amount equal to the savings resulting from the employee furloughs required by this section, for a total reduction of $36,000,000. The Council shall enact legislation to implement this section which may include but shall not be limited to procedures to ensure that public health and safety functions are carried out.

WITHIN-GRADE SALARY ADJUSTMENTS

Notwithstanding any other provision of law, no employee of any agency, office, or instrumentality of the District shall receive within-grade salary increases during the fiscal year ending September 30, 1993, and no time during the fiscal year ending September 30, 1993 shall accrue toward the waiting period for advancement to the following rate within the grade. The spending authority for each agency, office and instrumentality is reduced in an amount equal to the savings resulting from the adjustments required by this section, for a total reduction of $13,000,000.

CAPITAL OUTLAY

For construction projects, [$333,639,000] *$393,639,000*, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That [$8,232,000] *$13,779,000* shall be available for project management and [a decrease of $2,734,000] *$12,749,000* for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1994, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1994: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $251,630,000, of which $39,602,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects, and $12,200,000 collected as payment in lieu of taxes pursuant to the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be transferred to the general fund to provide $10,200,000 for the Mayor's youth and crime initiative, and $2,000,000 for the University of the District of Columbia.

For construction projects, $45,908,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further*, That not to exceed $22,705,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,500,000.

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.), of which $1,847,000 shall be transferred to the general fund: *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1994, shall be transmitted to the Congress no later than April 15, 1993.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. None of the Federal funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1992 shall be deemed to be the rate of pay payable for that position for September 30, 1992.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1993, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1993 revenue estimates as of the end of the first quarter of fiscal year 1993. These estimates shall be used in the budget request for the fiscal year ending September 30, 1994. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking "sold before October 1, 1992" and inserting "sold before October 1, 1993".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4-42; D.C. Code, secs. 1-299.1 to 1-299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1992, of the required reorganization plans, including but not limited to: the Office of Tourism, the Office of Banking and Financial Institutions, and the transfer of the functions of the Unclaimed Property Unit within the Department of Finance and Revenue to the Office of the Controller.

SEC. 128. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 129. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 130. Section 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1992" and inserting "December 31, 1993".

SEC. 131. For the fiscal year ending September 30, 1993, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113 (d)).

SEC. 133. None of the funds made available in this Act may be used by the District of Columbia to operate, after June 1, 1993, the juvenile detention facility known as the Cedar Knoll Facility. The Mayor shall transmit a plan and timetable for closing the Cedar Knoll Facility to the Committees on Appropriations of the House of Representatives and the Senate by January 15, 1993.

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1993 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 135. (a) None of the funds appropriated by this or any other Act may be used to issue or renew a registration certificate or identification tag for any motor vehicle if unpaid fines, penalities and other costs for traffic violations in the District of Columbia are outstanding against any registered owner of such vehicle or against any authorized user of any vehicle of such registered owner.

(b) Subsection (a) shall not apply to an issuance or renewal if the Director of the Department of Public Works of the District of Columbia—

(1) determines that special circumstances require a waiver of such subsection with respect to such issuance or renewal;

(2) issues such waiver in writing, setting forth such circumstances; and

(3) submits a written notification of such waiver and circumstances to the Committees on Appropriations of the House of Representatives and the Senate and to the governmental agency having authority to approve such issuance or renewal.

SEC. 136. None of the funds made available in this Act may be used by the District of Columbia to impose, implement, collect, administer, transfer, or enforce a payment in lieu of taxes on the Water and Sewer Utility Administration that would increase payments required of suburban jurisdictions in Maryland or Virginia under the Blue Plains Intermunicipal Agreement of 1985.

This title may be cited as the "District of Columbia Appropriations Act, 1993".

TITLE II

FISCAL YEAR 1992 SUPPLEMENTAL DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,177,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 560), $5,427,000 are rescinded for a net decrease of $2,250,000: *Provided further*, That of the remaining funds, $1,724,000 shall be for the Mayor's youth and crime initiative in the City Administrator's Office, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds, and $476,000 shall be for the Office of Personnel to conduct a management audit of personal and nonpersonal services: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds an additional $1,694,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board[: *Provided further*, That of the $10,020,000 appropriated to the Retirement Board from the earnings of the applicable retirement funds, not to exceed $400,000 of this appropriation, subject to the enactment of authorizing legislation, shall be used to reimburse the general fund for expenses incurred by the general fund during the fiscal year ending September 30, 1992, in rendering services related to the Retirement Board, including, but not limited to, determining retirement eligibility, calculating pension benefits, preparing and distributing pension checks, filing reports and related activities].

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $6,361,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $5,094,000 are rescinded for a net increase of $1,267,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $114,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $22,356,000 are rescinded for a net decrease of $22,242,000: *Provided further, That of the funds remaining for the personal services of the Metropolitan Police Department, $1,000,000 shall be redirected to non-personal services of the Department for equipment purchases and contractual services: Provided further, That not to exceed $700,000 shall be available from this appropriation, and funds under this heading in Public Law 102–111 (105 Stat. 561) for the Chief of Police for the prevention and detection of crime.*

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $300,000, of which $260,000 is for the public schools of the District of Columbia and $40,000 is for pay-as-you-go capital projects for the public schools: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 563), $48,000 for the Education Licensure Commission are rescinded for a net increase of $252,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,565,000: *Provided*, That $2,196,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $3,405,000 are rescinded for a net increase of $42,160,000.

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $31,308,000 are rescinded.

WASHINGTON CONVENTION CENTER FUND

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $560,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $2,544,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $2,245,000.

RESIZING

For the purpose of funding costs associated with the Temporary Appeals Board, downsizing, and early-outs, $5,510,000, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,667,000.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $11,000,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years for the Law School Facility, $10,000,000 are rescinded for a net increase of $1,000,000: *Provided further, That $150,000 shall be available for project management and $285,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.*

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and sewer enterprise fund", $62,327,000, of which $28,287,000 shall be transferred to the general fund to finance general fund operating expenses: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566), $35,820,000 are rescinded for a net increase of $26,507,000: *Provided further*, That $38,834,000 of the amounts available for fiscal year 1992

shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $38,006,000 as provided under this heading in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102-111; 105 Stat. 566).

The following provision under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102-111; 105 Stat. 566) is repealed: "*Provided further*, That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects."

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300); D.C. Code, sec. 2-321 et seq.), of which $584,000 shall be transferred to the general fund.

GENERAL PROVISIONS

SEC. 201. Section 134 of the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (105 Stat. 571) is amended by inserting after subsection (c) the following new subsection:

"(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.".

SEC. 202. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1992.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1992".

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

Mr. ADAMS. Mr. President, the District of Columbia appropriations bill that the committee recommends today contains a Federal payment of $624.5 million, along with a $30.8 million additional Federal amount to help fund the Mayor's crime and youth initiative.

With these two elements, we have provided the full Federal payment on which the city has based its balanced budget. They may have used a different method of calculation but these two figures do arrive at the same amount for balancing the District of Columbia's budget. In order to do that we had to take other drastic steps that are going to be painful for the District's Retirement Board. We are recommending that one-half of the Federal contribution for fiscal year 1993 be delayed until fiscal year 1994. I recognize this is bad policy and also bad government, but it is necessary if we re to keep the District's budget in balance, as we are required to do.

Mr. President, in many ways this has been a very difficult year to put together a series of recommendations. The realities of the Budget Act have required some very onerous choices. I want at this time, out of order an in the middle of my statement, to thank the Senator from Missouri [Mr. BOND] for his assistance as we have gone through this. This is a difficult year, because of the budget requirements.

The reality of the Budget Act has required that we make these choices. For instance, we have had to decide whether to delay one-half of the Federal payment to the District's retirement system or to cut $25 million from city services already reduced by the Mayor and Council. Neither of these options comes without a burden on the District government.

Some may say that we could eliminate some positions. Or that we should cut some other function. The Mayor testified that they have eliminated 1,450 people, not positions but people, from the payroll since she became Mayor. We should also note that under this budget proposal no city employee will get a raise; no city employee will get a step increase in their current pay grade; and every city employee, except policemen and firemen, will be furloughed for 1 day per month next year.

These are tough, bad medicine-type approaches but necessary to make this balanced budget. So we determined we just could not require further sacrifices of the city's work force in fiscal year 1993.

As you know, it is my personal opinion that the Congress should not be micromanaging the District government, that that is the job of the Mayor and city council, and they are doing this job. But I have reported this fully to the Congress here and now so they know what has been going on and what they have done. We just felt we could not ask further sacrifices from the District citizens in the form of reduced services.

Mr. President, often the District of Columbia government is portrayed as inefficient and ineffective, and certainly there is plenty of room for improvement, just as there is in the Federal Government. But just as often we fail to mention its successes, which in this case includes 9 balanced budgets of the last 11. Would that we could do so well.

The District was able to close fiscal year 1991 with a $2 million operating surplus, a reversal from a $118 million deficit in fiscal 1990. This is a small surplus, less than has occurred in more than a decade, but it is a surplus.

Mr. President, I feel very, very strongly that it is very important that the Congress help the Mayor with her initiative to attack the root causes of crime and violence. The first step is to stabilize the streets. And this Congress and this Mayor started on this 2 years ago. You will remember the initiatives that had been started by the administration and the Congress to attack street crime and drug violence. And as a part of this, they have taken a number of steps.

This initiative that I have just stated to put the $30.8 million into the Mayor's program on crime and violence is to help stabilize the streets and to continue these initiatives which include the following direct day-by-day, in-the-trenches steps: more officers on foot patrols, particularly around public housing, where most of the violent crime is happening.

Even more importantly, the Mayor has more than doubled the number of homicide investigators and sought the help of the Federal Bureau of Investigation. The Chief of Police has begun a program called Community Empowerment Policing or CEP. This approach to policing has proven successful in strengthening the ties between the police force and the community in other cities and will have the same effect here in time. This is putting policemen on the streets and in the communities, living in the communities, dealing with the communities so that they can deal with street crime.

Mr. President, I salute this philosophy of putting police officers closer to the communities that they patrol. In the District, this has translated into police substations in public housing, a community center in Mount Pleasant, the site of a large Hispanic population, and an innovative bicycle patrol in the sixth police district with bicycles donated by the Schwinn Co.

This has been a successful program in my home city, and I am hopeful it will have the same success here. As you can see, we are trying to put the police officers back into the neighborhoods to protect the citizens on a body-by-body basis. I commend the Mayor for this action and the chief of police.

Mr. President, there are other steps that the Congress is involved in to try to help stop the spread of violence, because there is virtually no family in this city that has not been touched in some way by the violence in the street, including, unfortunately, our congressional family.

There is separate legislation that gives the Capitol Police Department the same jurisdiction over the Hill that the U.S. Park Police have outside of the monuments and parks so that the Capitol Police can now begin to help patrol the neighborhoods around us. And there is pending presently in the Rules Committee and before the Congress other legislation which we have to pass to allow patrols in areas that are expended beyond the immediate Capitol, as well as expanded jurisdiction to arrest for all types of crime, as the Park Police have this type of authority.

As the Chair knows, because he is familiar with this city as I am, there are five separate police forces in this city.

What we are trying to do with all of them is get them on the streets and try to stem the homicides, the attacks and physical violence that is occurring.

I commend the chairman of the Rules Committee and other committees that are moving the Capitol Police out in those areas, also. They are now a well-trained force and we welcome them to help protect our congressional family.

As important as they are, crime and our response to it are not the only things worth talking about in this bill, because there is far more to a city then to try to prevent violence and crime to make it a delightful place to live than simply more police and more actions to stem violence.

The committee recommended $250,000 for a parents-as-teachers program that my colleague, Senator BOND, and others helped initiate last year. I support this program. It has been very well received, and I understand that these funds will allow them to serve the remaining target population, as well as add a bilingual component, which is very important because of the large Hispanic population that is now in the District as well as other language-type barriers that must be broken down within the District as people have moved into it.

Included is $350,000 to replicate the Options School. This is a program, which is a dropout prevention program, has been operating out of the National Children's Museum for the past 3 years. The data on the success rate of the kids who complete this program exceeds 80 percent, success of 80 percent. This means these kids are in school, making passing grades, not out on the streets.

Finally in area of education, we are providing $779,000 to the Superintendent's Center for Change to expand the program using computers to teach algebra I. These sound like small direct steps but they are just precisely that, to help the kids. This program has been operating as a part of the Anacostia for a year with good results and it is time to expand it to the other schools in the areas of the city. So it has had its test and we now want to see that all schools have it.

In addition, I am recommending $1,140,000 in Federal funds for the Department of Housing and Community Development to provide mortgage assistance to 57 low-income residents in Columbia Heights along the 14th Street corridor, just above Florida Avenue. This project, called the Nehemiah Project, will take four vacant parcels of land in a two- or three-block area and create new homes and retail space where for 25 years there has been broken promises and broken dreams.

Mr. President, I was in that neighborhood in 1968 when that riot took place and those burnings were occurring, and I drive in that neighborhood quite often. I think it is a tragedy that we, in the District government and Congress, have not moved to try to provide housing and stabilize this neighborhood. And the recent killing of a child up there near Lincoln Junior High is a tragedy we must avoid.

Mr. President, another fundamental area that has consumed much of the committee's time in recent years is the District's medical care infrastructure, both capital and human. The health care industry is a major factor in the District's economy, one-half of the employees at city hospitals live in the city, yet it is an ailing industry. In 1990 hospitals in Washington, DC, lost an average of 4.7 percent.

This reduced cash flow—because it had to come out of their cash flow—has caused hospitals to close or curtail services by closing a trauma center, to lay off employees, and to defer capital improvements.

Many in the Congress may not know that historically the Federal Government has played a leading role in providing for adequate facilities for the citizens—Members of the Congress, and others—for health care in the District of Columbia, so that all could receive medical care or that medical care was particularly available for traumas and emergencies. That service is in grave danger.

Mr. President, we are making two recommendations in this bill that will improve the adequacy of medical care to the District's citizens, which include many Members of the congressional family.

First, the committee is recommending to provide, over the next 3 years, the $50 million authorized by Public Law 101-590 for the renovation of George Washington University Hospital. As the Chair knows and many Members know, this is traditionally the hospital where Presidents have been taken in assassination attempts and also has served many Members of Congress, both House and Senate. We attempted to fund this project last year but were ultimately unsuccessful.

Another program that we attempted to establish last year but failed to convince our House colleagues of its merit was the trauma care fund. Last year we were concerned that uncompensated care had grown to $212 million in 1989.

By uncompensated care we mean that children or people are injured and they go into emergency rooms and they cannot pay, but they have to be serviced or they die. So this type of trauma care has grown, now, we find from $212 million to $228 million in 1990. The General Accounting Office has reported that urban trauma centers are closing because trauma care is expensive, and treatment costs usually exceed patient revenues in urban centers.

This is because many are wounds that are caused by gunshot or by other types of violence, and often these are victims.

Mr. President, the committee is recommending a one-time $10 million transfer from the water and sewer fund to establish the fund and hopes that the District will find a stable source of revenue for the fund in the future. Each hospital with a level one trauma center will be eligible to receive some reimbursement for the uncompensated trauma cases. As you can see, this will not even come close to covering these costs, but at least it may keep some more of the centers open so people can get to them when they are in dire emergency.

In closing, I thank all members of the subcommittee: the Senator from Nebraska [Mr. KERREY], the Senator from Georgia [Mr. FOWLER], and Senator GORTON, who is my junior colleague from the State of Washington—I deeply appreciate his help—and especially I want to mention again the Senator from Missouri, our ranking member, Senator BOND. Senator BOND has had a lot of experience as a Governor of the State and other local governmental experience. His advice and help has been invaluable. His contributions to this bill have been great. He has been a great part in bringing this bill to the floor. I cannot imagine a more cooperative relationship.

This is a difficult bill. We understand that. And, therefore, it has required comity, and that we have had.

I also want to thank the chairman of the Appropriations Committee, Senator BYRD, who was chairman of this subcommittee for 7 years. During that time I have had the privilege of serving on the committee he has offered crucial support at every turn. I will always be in his debt for the guidance and privilege of calling him colleague and for the assistance he has given me.

I could not finish saying my thank you's without a special expression of gratitude to the Senator from Oregon, ranking member and former chairman of the Appropriations Committee. I have had the honor of serving with MARK HATFIELD in this Congress and other public service for nearly 30 years. He is a personal friend and as fine a public servant as there could be.

Before yielding to the Senator from Missouri, I ask unanimous consent—and I want to be careful—I will be prepared to ask unanimous consent for the committee amendments to be agreed to en bloc. But this has not been completely cleared yet, so at this point I will yield to the Senator from Missouri [Mr. BOND].

Mr. BOND. I thank the chairman of the District of Columbia Appropriations Subcommittee, my good friend from Washington. I join with him in expressing thanks both to the chairman of the full committee and the ranking member, the Senator from Oregon [Mr. HATFIELD].

I want to express appreciation to Chairman ADAMS for bringing to the

Senate a fair and equitable bill which I hope my colleagues can support. I should note the budget authority and the outlays associated with the bill are within the subcommittee's 602 allocation and that the Federal funds appropriated will provide for a balanced District of Columbia budget.

As one who resides in the District of Columbia when not at my real home in Mexico, MO, I especially thank the chairman of the subcommittee for his many years of dedication and service to the city. He is known as a champion for the District of Columbia. He has spent much of his time in Congress working on and assisting the District with very difficult and challenging problems.

The Presiding Officer, Mr. ROBB, and I have gone through difficult times when we served as leaders, chief executives of our States. But I do not know that any State or local government has gone through more difficult times than has the District of Columbia. So it has been a great service to the District and to the people who live and work here, and the many millions of people who visit each year, to have had the very careful and thoughtful attention that Chairman ADAMS has brought to the affairs of the District.

As a special example of Senator ADAMS' legacy, there is the Nehemiah project contained in this bill. This project calls for the construction of 57 units of housing and 21,650 square feet of retail space on four sites in the Columbia Heights neighborhood. Funds provided will bring the sales price of these homes that will be created into the mortgage reach of lower income families. This obviously, as he has stated, will go a long way toward restabilizing the neighborhood and will be another very significant contribution by the chairman to this community.

The chairman of the subcommittee has highlighted the bill in his opening remarks. I see no need to take the time of the Senate to repeat the facts and figures.

I would mention just a couple of items of special interest. The payment of $10 million for supplementing the trauma care fund to be used by various D.C. hospitals which have been dramatically impacted by the number of patients who cannot pay for services rendered. This, obviously, is a crying need. It is an instance in which care cannot be refused, when death or serious permanent disabilities might result.

I am also very pleased that the Parents as Teachers Program which we have encouraged the District of Columbia to adopt is now under way. This would include an expansion of the program to allow bilingual services, and I believe the residents of the District would benefit from it. It also closes the Cedar Knolls Juvenile Detention Center in Prince Georges County, which has been plagued by breaches of security in recent months and has caused a great deal of concern to residents in the area.

This bill provides $655,653,000 for the Federal payment. This total payment includes $30,798,600 to support the Mayor's youth crime initiative.

As the chairman has previously said, the Federal payment is not a handout or a gift. It is in fact a payment in lieu of taxes to the District of Columbia from the Federal Government. It is estimated that some two-thirds of the local economy is beyond the city's taxing authority. So this payment represents the Federal Government making good on paying its taxes to the local government and supplementing those taxes that cannot be imposed on foreign governments which have businesses and representation here.

I must note I am concerned about the proposed delay of funds provided to the retirement fund of the District. The House has provided $52 million-plus for the Federal payment to the fund. The bill before us would provide exactly half of that, $26 million. By cutting it, we are not saving. We have the obligation to come up with that money. I agree with the chairman of the subcommittee that this is not good policy and I hope we can work this out in conference.

The bill before us also recommends a few small items to be funded with Federal dollars. Again all within the allocation of the subcommittee.

While the committee unanimously supported these items, I believe, as I did last year, we must be aware that future allocations to the District of Columbia for discretionary Federal dollars will be carefully reviewed as we face the reality of ever declining discretionary dollars available.

Mr. President, in conclusion, I again commend the chairman of the subcommittee for his cooperation in bringing this bill before the Senate. I extend my thanks again to him for his long care and concern for the District.

I further express, again, our appreciation to the chairman of the full committee, Senator BYRD, and ranking member, Senator HATFIELD, for their support of the District of Columbia bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

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

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I just ask the Senator to withhold. And I suggest the absence of a quorum, after the reporting of the amendment, which he is entitled to.

The PRESIDING OFFICER. The Chair reminds the Senator form Alabama that the amendment is not in order unless it is an amendment to the first committee amendment.

Mr. SHELBY. I withhold.

Mr. ADAMS. Mr. President, I state to the Senator from Alabama, we are not trying to block his amendment. We simply have to proceed with the committee amendments. When we finish with those, Senator LOTT, I know has an amendment, and Senator SHELBY has an amendment. I will not block either of them. I hope we can arrive at time agreements on both of them.

I am going to suggest the absence of a quorum so that we can proceed orderly. I think first, maybe, with Senator LOTT, and then Senator SHELBY's amendment, after I have done en bloc what we can agree to.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. ADAMS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the amendment on page 2, beginning on line 23; that the bill, as amended, be regarded for purposes of further amendment as original text; provided that no points of order shall be considered to have been waived if this request is agreed to.

And I ask unanimous consent that the Senator from Mississippi be recognized to offer an amendment, when he offers the amendment, that the language proposed to be inserted to the committee amendment on page 2, line 23; that during the pendency of the Lott amendment no amendment in the second degree to the Lott amendment or to the text proposed to be stricken or amendment to the underlying committee amendment be in order; that there be 1 hour of debate equally divided in the usual form; and, that, upon expiration or the yielding back of time, a vote occur on or in relation to the Lott amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I therefore want to inquire of the Chair. Now that the committee amendments have been agreed to en bloc, with the exception of the last amendment, that amendment is subject to an amendment by Senator LOTT to which there can be no second-degree amendment.

The PRESIDING OFFICER. The Senator is correct.

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

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY].

Without objection, the remaining committee amendment will be set aside.

AMENDMENT NO. 2795

(Purpose: To make murder in the District of Columbia a Federal crime punishable by mandatory life imprisonment or death)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself, Mr. THURMOND, Mr. SEYMOUR, Mr. MCCONNELL, Mr. PRESSLER, Mr. HELMS, Mr. HOLLINGS, Mr. SYMMS, Mr. CRAIG, Mr. LOTT, and Mr. HATCH, proposes an amendment numbered 2795.

Mr. SHELBY. 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:

SEC. ____. MANDATORY LIFE IMPRISONMENT OR DEATH PENALTY FOR MURDER IN THE DISTRICT OF COLUMBIA.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury

further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in

subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. SHELBY. Mr. President, on behalf of the 248 people who have been murdered in the District of Columbia so far this year, I rise to offer an amendment to reinstate the death penalty in the District of Columbia for first-degree murder.

Mr. President, it is hard to know where to begin. I suppose I could talk about the historical arguments in favor of capital punishment: How man is responsible for the consequences of his own actions; how, historically, crime has increased as the penalty for murder has decreased; how the death penalty can be an effective deterrent when properly and fairly administered; how 40 States, including Virginia and Maryland, and the Federal Government have death penalty provisions.

I could try to morally justify capital punishment by pointing to biblical verses like Genesis (9:6) which states, "Whoso sheddeth man's blood, by man shall his blood be shed," or Leviticus (24:17) which states, "He who kills a man shall be put to death."

I could throw out statistics showing that 55 percent of the people living in the District of Columbia favor the death penalty for first-degree murder, or that 83 percent of Americans do not think criminals are sufficiently punished.

I could remind my colleagues of the constitutional obligation and authority we have as Senators to help govern the District of Columbia under article 1, section 8, clause 17 of the U.S. Constitution.

However, if I were to do all of that, it would detract from the true purpose behind my amendment to reimpose the death penalty for first-degree murder in the District of Columbia.

Instead, I would like to take a few minutes to put this issue into its proper perspective. To me, it appears as though the local government, citizens and law enforcement community in the District of Columbia have largely become immune to the violence that plagues our Nation's Capital. I am not sure that people around here appreciate what it is to murder someone anymore.

That worries me, and it worries a lot of people in America, including thousands in this city. It worries me because the acceptance of violence only serves to perpetuate and encourage further violence. Young people fail to develop a sense of respect and appreciation for the value of a human life when they are constantly surrounded by murder and violence. If we hope to salvage what is left of our Nation's Capital, we must get involved and send a strong message to those who are running out of control.

I remember vividly when the violence in the District of Columbia first began to escalate in the mid-1980's. It just so happens that the rise in violence coincided with the repeal of the District's death penalty provisions in 1982. Everyone was shocked to read about the latest killing's the drug-related violence, and the growing infusion of large-scale crime organizations. Today, on the other hand, the community as a whole has become accustomed to living in and around the "Murder Capital of the World." It is said mockingly that the District of Columbia really is the death capital. Others jest that the District of Columbia truly is "a district of Colombia", because of its drug activity. I used to hear these comments and dismiss them. That was before January 11, of this year.

As most of you know, one of my legislative assistants, Tom Barnes, was murdered just a few blocks from this Senate floor on that day. Tom was a long-time family friend from my hometown in Alabama with immeasurable potential. When I received the call that Tom had been shot, it changed my life and attitude about the violence in the District of Columbia forever.

My perspective is no longer from behind my desk with a cup of coffee and the Washington Post. While I regret that it took a tragic event to open my eyes to the realities of the situation in the District of Columbia, I now understand what thousands of other victims' families and friends have had to face over the last 10 years of violence in the District of Columbia. I regained an appreciation for the magnitude of the crime committed against Tom Barnes and others, his family and friends, that I had somehow lost over the years.

Tom Barnes' murder has encouraged me to do what I can to reduce the crime rate in the District of Columbia. However, Tom is not the only one for whom I am doing this. It is for all the victims of violence and their families. Too often, when we address the issue of capital punishment we tend to think more about the rights of the criminals and we forget about the victims. Therefore, I would like to take a few minutes to read the names of every murder victim in the District of Columbia in 1992, so far this year. When I first saw this list yesterday, there were 246 names on it. Today, there are 248.

(Mr. DIXON assumed the chair.)

Mr. SHELBY. As I read this list and share it with you, keep in mind that all of these murders have occurred in an area less than 100 square miles in size, and in less than 7 months. I apologize now for any mispronunciations of names, but I do want to share them with you.

The murder victims this year are as follows:

1. Ricco Neal, age 14;
2. Charles Marshall, age 38;
3. Wavely Pegram, age 27;
4. Benjamin Lumpkins, age 26;
5. Jermaine Kornegay, age 19;
6. Winston Palmer, age 22;
7. Andre Kenny, age 26;
8. Kweyisi Amoasi-Mensa, age 42;
9. Phillip Garrett, age 27;
10. Michael Moore, age 18;
11. Tracey Dew, age 32;
12. Ronald Lewis, age 20;
13. Earnest Williams, age 32;
14. Louis Franklin, age 32;
15. Darius Moore, age 18;

16. Sharon Streeter, age 30;
17. Mohammad Hemmatipour, age 36;
18. Ivan Gibson, age 21;
19. Tom Barnes, age 25;
20. Norman Davis, age 30;
21. Norberto Carrion, age 33;
22. Anthony Jackson, age 25;
23. Carlos Carter, age 22;
24. Willie Dalton, age 38;
25. Columbus Beatty, Jr., age 39;
26. Gary Cooper, age 18;
27. Marcus Greenfield, age 25;
28. Roosevelt Robinson, age 20;
29. Donavan Duncan, age 24;
30. Joseph Young, age 16;
31. Christopher Pryor, age 25;
32. Ellis Payne, age 66;
33. Milton White, age 26;
34. Theodis Johnson, age 34;
35. Arthur Stanley, age 28;
36. John Cohen, age 65;
37. Darwin Jones, age 30;
38. Maggie Comfort, age 1;
39. Leon Martino, age 19;
40. Brian Cooper, age 26;
41. Dennis Burroughs, age 30;
42. Daniel Morrison, age 25;
43. Richard Tate, age 40;
44. Calvin Johnson, Jr., age 20;
45. Calvin Hargrove, age 24;
46. Norman Hawkins, age 43;
47. Stephen Gass, are 29;
48. James Wilson, age 26;
49. Antwuan Glaspie, age 19;
50. Terry Wilkins, age 29;
51. George Tolson, Jr., 31;
52. Eric Gant, age 34;
53. Manual Stribling, age 53;
54. Phillip McCoy, age 31;
55. George Hutchinson, age 17;
56. Anthony Reel, age 20;
57. Kenneth Mobley, age 20;
58. Janelle Tilley, age 16;
59. Dannie Rogers, age 20;
60. Phillip Lewis, age 20;
61. Shawn Young, age 24;
62. Willie Simpson, age 37;
63. Russell Johnson, age 25;
64. Dwayne Lathan, age 31;
65. Ivan Wilson, age 36;
66. Mark Muskelly, age 23;
67. Timothy Gorham, age 33;
68. Kevin Vaughns, age 17;
69. Morgan Perry, Sr., age 51;
70. Juanita Eaddy, age 28;
71. Antwyone Rogers, age 27;
72. Marc Locust, age 21;
73. Robert Wilson, age 17;
74. Darius Brown, age 4;
75. Darryl Estes, age 28;
76. Monriko Hudgins, age 20;
77. Rolland Hayden, age 22;
78. Clarence Gilchrist, age 19;
79. Bruce Willis, age 35;
80. Kevin Wilson, age 26;
81. Sharon Bryant, age 32;
82. Oscar Gomez, age 24;
83. Timothy Coleman, age 18;
84. Michael Thompson, age 27;
85. John Mosses, age 26;
86. Clarence Warren, age 39;
87. Harold Cooper, age 32;
88. Jerry Harvey, age 36;
89. Wanda Koonce, age 36;
90. Nathan Duckett, age 19;
91. Anthony Stewart, age 22;
92. Anthony Frieson, age 28;
93. Bernard Davis, age 24;
94. Kenyatta Geeter, age 21;
95. Hezekiah Vaughn, Jr., age 20;
96. Alayo Oriolowa, age 36;
97. Thomas Robinson, age 31;
98. John Cassell, age 36;
99. Marquette Holston, age 18;
100. Keith Simms, age 28;
101. James Halloman, Jr., age 25;
102. Trevor Smith, age 34;
103. Andre Thompson, age 16;
104. Christie Hoyle, 23 years of age;
105. Nathaniel Murray, 34 years of age;
106. Antonio Harrison, 20 years of age;
107. Darnell Fouch, 27 years of age;
108. David Roy Jr., 21 years of age;
109. Haywood Marable, 39 years of age;
110. John Doe, 20 years of age;
111. Veronica Callahan, 29 years of age;
112. Duane Smallwood, age unknown;
113. Emmett Varnum, age unknown;
114. Ronald Wilkerson, 30 years of age;
115. James Reed, 78 years of age;
116. William Franz, 33 years of age;
117. Barbara Farmer, 29 years of age;
118. Ryan Phoenix, 18 years of age;
119. Jessie Zellars, 36 years of age;
120. Ammie Dickens, 61 years of age;
121. Darren Holsey, 23 years of age;
122. Johnnie Anderson, 21 years of age;
123. Tyrone Britton, 20 years of age;
124. Johnny Abraham, 18 years of age;
125. Ahmed Miller, 26 years of age;
126. Joseph Davidson, 24 years of age;
127. Kevin Sayles, 22 years of age;
128. James Elliot, 47 years of age;
129. Richard Johnson, 29 years of age;
130. Anthony Lanzone, 25 years of age;
131. Charles Craig, 16 years of age;
132. John Doe, an infant;
133. George Seaborn, 64 years of age;
134. Everett Marshall, 30 years of age;
135. Michael Anderson, 28 years of age;
136. Naomi Hamlet, 73 years of age;
137. Robert Butler, 25 years of age;
138. Gregory Jackson, 24 years of age;
139. Charles McQueen, 27 years of age;
140. Dwayne Jones, 28 years of age;
141. Clyde Moten Jr., 19 years of age;
142. Jose Alverengar, 33 years of age;
143. Tyrone Cole, 27 years of age;
144. Keith Kellums, 34 years of age;
145. Rachee Boyd, 19 years of age;
146. Rodney Jackson, 32 years of age;
147. Ravon Gray, 21 years of age;
148. Coy Weeks, 24 years of age;
149. Christopher Harrison, 28 years of age;
150. John Doe, 20 years of age;
151. Kobie Smith, 21 years of age;
152. Donte Reed, 19 years of age;
153. Valencia Anderson, 26 years of age;
154. Mark Waller, 28 years of age;
155. Clinton Frye, 21 years of age;
156. Louis McLean, 27 years of age;
157. Octavia Pressley, 37 years of age;
158. George Kilbourn, 46 years of age;
159. Theodore Lee, 41 years of age;
160. Willie Evans, 23 years of age;
161. John Doe, infant;
162. Jane Doe, infant;
163. Willie Corley, 40 years of age;
164. Calvin Tyler, 20 years of age;
165. Milton Brown, 40 years of age;
166. Ronald Sutter, 33 years of age;
167. Dominic Powell, 21 years of age;
168. Anthony Bell, 26 years of age;
169. Chet Mathews, 21 years of age;
170. Vincent Willis, 21 years of age;
171. Earl Blakley, 40 years of age;
172. James Logan, 45 years of age;
173. Joseph Baltimore, only 16 years of age;
174. Kim Jones, 58 years of age;
175. Jeffry Mason, 37 years of age;
176. Anthony Williams, 20 years of age;
177. Robert Hill, 52 years of age;
178. Michael McLeish, 27 years of age;
179. Thomas Liddell, 28 years of age;
180. Lawrence McEachin, 48 years of age;
181. Calvin Jones, 30 years of age;
182. Dontray Bradley, 2 years old;
183. Eric Dorsey, 46 years old;
184. Franklin Carter, 40 years old;
185. Hugh Small, 19 years old;
186. Eric Mathis, 25 years of age;
187. John Jay, 22 years of age;
188. Terrance Wooten, 25 years of age;
189. Charles Hickerson, 19 years of age;
190. Nathaniel Shelton, 24 years of age;
191. Damian Chisley, 23 years of age;
192. Tezia Allen, age 1;
193. Thomas White, 22 years of age;
194. Carlos Jordan, 17 years of age;
195. Larry Howard, 17 years of age;
196. James Russell, 16 years of age;
197. Araminta Coates, 22 years of age;
198. Joseph Curtis, 25;
199. David Hamilton, 34, and the 200th victim, as I go through this list, as I go through thus far, this year, Carl Martin, 20 years of age;
201. Richard Scott, 17 years of age;
202. Ronald Williams, 20 years of age;
203. Driscoll Hamilton, 21 years of age;
204. Raymond Brown, Mr. President, 26 years of age;
205. Antonio Ben, 23 years of age;
206. Bailey Hayes, 37 years of age;
207. Nakya Scott, age 1;
208. Michael Clemons, 25 years of age;
209. Gregory Pope, 22 years of age;
210. Aaron Wilson, 28 years of age;
211. Patrick Buckmon, 37 years of age;
212. Benjamin Donker, 24 years of age;
213. Lisa Todd, 24 years of age;
214. Thomas West, 36 years of age;
215. Lenny Harris, 25 years of age;
216. Stevie Ellington, 20 years of age;
217. Earl Royal, 60 years of age;
218. Tyrone Cross, 32 years of age;
219. Robert Thompson, 21 years of age;

220. Gregory Taylor, the 220th murder victim in the District of Columbia this year, 36 years of age;
221. Freddie Abney, 45 years of age;
222. Raymond Bowlding, 21 years of age;
223. Willie Berry, 75 years of age;
224. Alan Smith, 45 years of age;
225. Don Johnson, 20 years of age;
226. Jose Cruz, 17 years of age;
227. Donald Davis, 18 years of age;
228. Ronnie Waters, 25 years of age;
229. David Brown, Mr. President, 43 years of age;
230. Kenneth Brown, 29 years of age when he was murdered;
231. Michel Matasangakis, 36 years of age;
232. Dwayne Drake, 16 years of age;
233. Terrance Adamson, 35 years of age;
234. Christopher Lewis, 22 years of age;
235. John Doe, 19 years of age;
236. Calbert Channer, 28 years of age;
237. Robert Perris, 25 years of age;
238. Kim Valentine, 38 years of age;
239. Monte Glen, 18 years of age; and the 240th victim, Mr. President, Calvin Kennedy, 20 years of age;
241. Jesus Garcia, 45 years of age;
242. James Bentley, 46 years of age;
243. Thomas Dozier, Jr., 23 years of age;
244. Samuel Wells, 43 years of age;
245. Marvin Goodman, 31 years of age;
246. William Mitchell, 47 years of age;
247. James Buchanan, 50 years of age; and the 248th one that we have as of this morning, Paul G. Cano, 31 years of age.

Mr. President, I have just related to the Senate and to the Nation the names—and I hope they will not be forgotten—the 248 names of people who were murdered right here in the District of Columbia, right here for the most part within a few blocks of where we are at the moment.

Mr. President, I believe something must be done to stop this carnage. It is not going to be easy. While the death penalty alone may not stop all of the violence in the District of Columbia, I believe it makes a forceful and dramatic statement. It says we have had enough. It says we are more concerned about the victims and their families than about the vicious criminals. It says, Mr. President, that we are for sure and swift punishment that meets the crime committed.

Both myself and members of my staff have gotten actively involved, as many other people in the Senate and House have, in community efforts to try to save the District from destroying itself. We have talked with the Mayor's office about new programs and we have met with other local officials involved with and concerned about the rising death toll that I have just enumerated. Unfortunately, while many of their intentions are good, progress and implementation has been slow at best.

The current penalty for first degree murder in the District of Columbia is life with parole after 30 years. That punishment I believe, is not severe enough. It does not fit the crime of murder and it does not serve the good of the community.

A recent attempt to get the death penalty initiative on the ballot as a referendum in the District was blocked by Judge Rufus King III after the Washington office of the American Civil Liberties Union and other longtime opponents of capital punishment filed a technical objection. In essence, the opponents of the death penalty are working to deny the people of the District of Columbia the opportunity to vote on this matter, despite the fact that a majority of the District's residents, according to some polls, support the death penalty.

The next scheduled election in which the people of the District would be able to vote on the death penalty would not be, it is my understanding, until 1994. In my view, based on what has been going on and what I just related to the Senate, we cannot afford to wait. Over 1,000 people more—more people, Mr. President—will be murdered by that time if the present trend continues. Therefore, I believe it is time for Congress to take action, for Congress to step in.

Mr. President, we are prepared to give the District nearly $700 million through the D.C. appropriations bill; let us give it safe streets too. Let us think of the victims for a change. I ask my colleagues to join me in supporting my amendment, and I thank those who have already cosponsored this measure; namely, Senators THURMOND, LOTT, CRAIG, SEYMOUR, HOLLINGS, HELMS, MCCONNELL, PRESSLER, HATCH, and SYMMS.

I believe timing is everything, and this is the right time for this amendment.

Mr. THURMOND. Mr. President, I rise today to join my distinguished colleague from Alabama, Senator SHELBY, in offering an important amendment to the underlying bill. This amendment will establish the death penalty for the District of Columbia. It provides the necessary procedures for the imposition of the death penalty in the District of Columbia.

Capitol Hill was shocked when a young man who was working for Senator SHELBY was brutally murdered only blocks from where we stand. It is time for the District to punish these heinous murderers. I strongly support Senator SHELBY's effort to bring the District of Columbia in step with the rest of the Nation where 36 States now have a death penalty.

The D.C. death penalty is not a new issue for the Senate. Last year, the Senate passed a crime bill which contained a D.C. death penalty but it was dropped by the crime bill conference committee.

This amendment embodies legislation virtually identical to the District of Columbia death penalty provisions contained in S. 2305, the comprehensive crime bill I recently introduced. The procedures for implementation of the death penalty are the product of discussions between prosecutors here in the District of Columbia and the Department of Justice. These procedures are consistent with those contained in comprehensive Federal death penalty proposal in S. 2305. Yet, there are some differences which reflect the nature of the homicidal offenses and offenders in the District of Columbia.

There have been 248 murders in the District of Columbia this year. There have been over 2,000 murders in the District of Columbia since 1987. It is time that the murder capital of the Nation have a death penalty. The law abiding citizens and this Nation demand action and they demand it now.

In closing, I want to state the following so that there can be no doubt in any Senator's mind. A vote in favor of the Shelby amendment is a vote for law and order. A vote against this amendment is a vote for continuing the status quo here in the District where murders continue to go unpunished.

For these reasons, I urge my colleagues to support the Shelby amendment.

Mr. SIMPSON. Mr. President, I rise today in strong support of the amendment by my colleague, Senator SHELBY, to implement the death penalty in the District of Columbia.

He spoke of the many murders in this Capital City. These victims received their own "death penalty" at the hands of criminals. I would ask those who oppose this amendment: Where is the compassion for these people? It is the innocent victims and their families to whom we owe our allegiance, not to the criminals.

The courts and the Constitution protect the rights of criminals. The death penalty is constitutional. There is no question that the courts take the greatest pains to ensure that each and every right of an accused is protected—more often at the cost of excessive delay and phenomenal taxpayer expense in paying for endless appeals.

It is our job, Mr. President, to speak for the rights of innocent victims—past, present and, sadly, future—and their families. Mr. President, we must adopt this amendment. It is our certain duty. I commend Senator SHELBY and support him fully.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

AMENDMENT NO. 2796 TO AMENDMENT NO. 2795

(Purpose: To provide for a local initiative to increase the penalties for murder in the District of Columbia)

Mr. ADAMS. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2796 to Amendment No. 2795.

Mr. ADAMS. 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:

In lieu of the matter proposed to be inserted by such amendment, insert the following:

SEC. . Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at the next general, special or primary election held at least 90 days after the enactment of this Act the following initiative.

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the exist-

ence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. ADAMS. Mr. President, I had the clerk read the amendment for the first few paragraphs so that everyone could understand what I am attempting to do by this second-degree substitute amendment. This amendment I am offering is in order to preserve the right of the District of Columbia residents to decide what laws they will be governed by. My substitute requires the District Board of Elections and Ethics to place Senator SHELBY'S amendment on the ballot as an initiative at the next primary, general, or special election in the District.

Mr. President I do this because I do not think there is any Senator in this body—and I do not think there is any Congressman over in the House—that would want the Congress of the United States to come to their State and tell them whether or not they should have a death penalty. I think this is up to the residents of the State, and I think that it should be up to the residents of the District of Columbia.

Such an initiative is being proposed and signatures are being gathered in the District. So, regardless of whether my amendment would pass, or Senator SHELBY'S, there would be such an amendment placed before the residents.

I do this, Mr. President, because in the United States there are 38 jurisdictions that have the death penalty. There are 15 without capital punishment, and I will read them so that Senators will understand whether or not their State has a provision for a death penalty. And I might state that each State's death penalty is very different. But most of them now comply with the U.S. Supreme Court's requirements.

And I have been informed by counsel—and I can only rely on counsel—that Senator SHELBY'S amendment conforms with the Supreme Court test for the death penalty. If it does not, that, of course, would be tested in court. But I am going on that assumption in my referring it to the District as an initiative.

The jurisdictions without capital punishment statutes are 15: Alaska, the District of Columbia, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin.

Mr. President, I do this because I know the commitment and the passion which the Senator from Alabama, who like myself is a former U.S. attorney, brings to this matter. I know he does not offer his amendment to deny any rights to the citizens of the District or as an attack on home rule. It is a much more personal undertaking that he is engaged in.

There is not a Member of this body or a staff person on the Hill or a law-abiding citizen in this city that would not give everything they could to have spared him, his staff, and Mr. Barnes' family the terrible tragedy of this young person's death. It is equally as tragic that this anguish has occurred 489 times last year and, as the Senator pointed out in reading all of these names, more than 200 times so far this year in the District of Columbia.

But, Mr. President, I do not want to leave the impression by my placing this second-degree amendment as an initiative to the District that nobody in this city is doing anything about stopping murders and crime in the city. Great efforts are being made.

As I mentioned in my opening remarks, the mayor has more than doubled the number of homicide investigators and has begun a joint program with the Washington office of the Federal Bureau of Investigation to expand that investigative force. In addition, since she became mayor a year and a half ago, Mayor Kelly has signed at least 17 measures that have increased penalties, made pretrial detention easier, provided for greater witness protection, and to make it easier to confiscate the assets of criminals.

Most recently, just last week, on July 21, after the required congressional review period, D.C. Act 9-260 became law in the District of Columbia. This new emergency law expands the definition of felony murder and provides for the penalty of life imprisonment without parole upon the conviction of first-degree murder.

I know that the present occupant of the Chair, having also been involved in law enforcement through the prosecutor's offices, knows that adding felony murder to the other list of first-degree murder, which start, of course, with premeditated murder, means that you will have the life imprisonment without parole upon conviction of first-degree murder extended to crimes using assault weapons and other weapons where there is a felonious disregard for the lives of others.

Permanent legislation is currently under congressional review.

Mr. President, I have had many conversations with the mayor and I am convinced from the testimony by the mayor and the police chief that they are doing everything they can think of to combat the horrible killing that is going on in this city. In my opening remarks, I mentioned all of the changes that have taken place. This is on top of the city increasing the number of officers on the force, as the Congress authorized and funded previously.

I might state, one of the problems is recruitment of officers. Sending officers on foot or on bicycles out into these high crime areas requires that they be carefully trained professionals, or else their lives are in danger and the lives of the citizenry. This is a deep and critical problem that we are dealing with.

So what I have done with this amendment, and I am going to ask in a

minute all of my colleagues that want to debate the death penalty to please come to the floor and do so, because I am hopeful that we can vote on my substitute which is to send an initiative to the residents of this District. Thereafter, if we cannot get a time agreement from those that are involved and interested in speaking on this, I hope that the Chair will call for a vote on my second-degree amendment. And then, if I lose that, I will move to table the amendment of the Senator from Alabama.

I will not try to raise a point of order on this. I will do those two things, so the Senator will have a fair and ample opportunity for vote upon it.

I want to be sure that everyone who wants to speak on this has that opportunity. But they should come promptly and make their speeches and make their comments, so we can move along.

I know this is a controversial subject, but it is not made any better by long periods of time being spent on it. It is not in the House bill. There will be, probably, another chance in conference.

So I hope my colleagues will support the substitute and allow this very important subject to be decided by the citizens of the District of Columbia, who are most affected by this crime, rather than by our actions here today.

So we have this situation. Senator SHELBY has offered an amendment that involves the death penalty. It amends the United States Code. I have not tried to raise a point of order.

Instead, I have asked this be referred by initiative to the District of Columbia residents to vote on it. The District of Columbia residents are already collecting signatures for such a vote, so I believe that a vote would occur, in any event.

I have said initiative, rather than sending it to the city council, because I think all citizens are interested in this, and I think they ought to have an opportunity.

When we were drafting the home rule bill, then-Representative Don Fraser—who is now mayor of the city of Minneapolis—and myself, specifically put in the initiative and referendum provisions that are like the broad-reaching-type referendum and initiative provisions used in Minnesota and Washington, so the citizens have an opportunity to vote on matters regardless of what the legislative body may or may not have done.

That is why I have made this type of an amendment. It is not to try to avoid a vote on Senator SHELBY's amendment. Because if I fail with my second-degree amendment, I will move to table that amendment.

I am stating this at this time so all the Members of this body, be they Democrats or Republicans, will have ample opportunity to come over right now and speak on this amendment, for or against it. But with the understanding that they know this Senator will move to table as soon as everybody has had their opportunity to speak on it.

And I hope we will be able to have a vote, first on my amendment, and then, if it fails, I will move to table Senator SHELBY's amendment.

I will state further to Senators that we have a time agreement with Senator LOTT on his amendment. I know of only one other amendment, by Senator MCCONNELL.

I call on all Senators who have any amendment to this bill to please come to the floor immediately, because we do not want another late-night session tonight.

I have discussed this with the majority leader. We should be able to finish this bill. We have had wonderful cooperation from Senator BOND, and from the Senators offering amendments. I hope we will have that from all of our colleagues.

We will not shut anybody off. But we do want to proceed with this bill as promptly as possible.

With that, I have offered my amendment, and I yield the floor.

The PRESIDING OFFICER. The senior Senator from Alabama.

Mr. SHELBY. Mr. President, the amendment that the distinguished Senator from Washington has offered, as I understand it, calls for a local initiative—in other words, a referendum—by the people of the District of Columbia. But it is my understanding from looking at this, it says that this would occur at the next general, special, or primary election held in the District of Columbia. That could be 1994.

I believe this amendment offered by the Senator from Washington is just to delay this. We have had, as I related earlier, 248 murders in the District of Columbia this year. I do not have a count on how many we have had since I have been in the Senate, this being my sixth year. I wish I could share it.

I do not have a count on how many murders have occurred since I have been in the Washington area, some 8 years in the House, and then 6 years in the Senate—14 years, but I think the time is now. The Senate should act on this. The Senate should adopt the Shelby amendment because it makes sense. I believe it would bring some order to this area.

This amendment offered by the Senator from Washington I believe is just to delay—if not to try to kill—what I have offered here. It is a delay. It might happen. It might not ever happen. But the timing is now.

And at the proper time—not now—I would move to table the amendment of the Senator.

But at the moment, 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. ADAMS. 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. ADAMS. Mr. President, as you can see, this is a controversial subject. We have had a number of people who have indicated they wish to speak on this. I see now the Senator from Michigan [Mr. LEVIN] is on the floor. I want to stress to Senators that, if they do want to speak on this, to come to the floor.

I am hopeful they will support my second-degree amendment, which would refer this matter to the residents of the District of Columbia by initiative. I understand we have considerable support for this. If this carries, why, then, the matter would be placed in the hands of the citizens to decide. I think that is where it should be rather than a congressional decision.

But I fully recognize the right and the very deep feelings of many Members of this body regarding the death penalty.

So I am hopeful that all Senators who either have amendments or wish to speak on this will come forth because I do hope and expect that a motion to table will be used after a period of time. I see my good friend, the Senator from Michigan, is here. We want our colleagues to know we are ready to vote, but we certainly respect the wish to hear from our colleagues on this subject.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank my friend from Washington, and, indeed, I do have some thoughts I want to express on this subject. First, let me say to my good friend from Alabama that I share his anguish with both the crime rate and with the murder rate in the Nation's Capital. I have a similar crime rate in my home city. I know that he and his staff have been particularly touched by a recent tragedy. I think everybody in this Chamber shares the disgust and the dismay at the crime rate in this country.

There is some difference in this Chamber, as there has been historically, as to whether or not the death penalty will deter the kind of conduct which he has described and by which he and his staff have been personally touched. Let me say to him we share that anguish with him, and the sentiment about crime that he has expressed we share very deeply, indeed, with him.

The question that we face is really twofold: One is whether or not a death penalty provision belongs on an appropriations bill and the other is whether or not the people of the District of Columbia should make that decision for themselves as to whether they want

the death penalty in the District of Columbia. Underneath that is the ongoing debate about the death penalty itself. This is not the first time that I have come to this floor to talk about the death penalty, and I am sure it will not be the last time. It is something I also feel strongly about, and I want to share my sentiments with our colleagues.

I opposed the death penalty over the years for a number of reasons, not the least of which is there is no evidence that it deters. Statistics are that States with the death penalty, in fact, have higher murder rates than States without the death penalty.

But I do not want to go into the deterrence issue yet. I want to first focus on another reason I have opposed the death penalty, based on my personal experience, may I say to my good friend from Alabama, and that is the possibility of a mistake.

We have all had experiences in our lives involving crime. There is no one who is untouched by it. I happened to represent a man who was convicted of a capital offense wrongfully, mistakenly. He served about 30 years in prison for a crime he did not commit. Somebody had identified, pointed him out in a lineup, and, if we had capital punishment in Michigan, he would have been executed. But we did not have capital punishment in Michigan, and he served about 30 years. Many Governors were willing to commute his sentence, and he refused until he could walk out of prison a free man, not with a commuted sentence but with a new trial and an acquittal.

Our office got involved in this case about 28 years or so after the conviction. We were able to get an investigator to go and look for that witness who identified him in the lineup. It was a young woman who identified him, pointed right to him in the lineup. Right in front of a jury she said, "That is the man," who then 28 years later said, "Sure, I did that because the detective told me that was the man. I could not have done that without the detective telling me that was the man. I did it because the detective said they were sure that was the man who killed my father." Her father was a storekeeper in a town called Hamtramck, MI, a little enclave surrounded by the city of Detroit. She was very open about it. She did not even realize the significance of what she was saying and willingly signed an affidavit. The judge, when he saw that, went into it and granted a new trial, and the man was acquitted.

We have other major mistakes. We are human. We are not perfect. And the problem with the death penalty is you cannot correct your mistakes. If we had a perfect judicial system which never made mistakes, it would be a stronger argument. But we are imperfect because we are human. That is why we read, year after year, headlines about somebody who served time in prison who then years later is found to have been innocent of a capital offense who would have been executed had execution been the means of punishment in that particular State, and then is found to have been convicted through error, by mistake—usually human error by the way, usually not purposeful or intentional or willful error, usually through human error. That is why we read, "Death Row Prisoner Goes Free." That is March 8, 1987. Joseph Green Brown, who came within 15 hours of being executed for a murder he said he did not commit, is free now. Brown was convicted in 1974. And then they go into the details. He was to be executed on a certain date in 1983 but this was stayed by a Federal judge, and then there was a new trial. Then he was acquitted.

And then we read another article, "Innocent Man Still Haunted By Death Row." This is a man who spent 3½ years on death row, named Earl Charles. He is a 29-year-old black man who sat on Georgia's death row for nearly 6 years—for a crime he did not commit. He was set free 3 days before Christmas last year.

In another newspaper article, "Death Row Inmate Freed on Bond Amid New Doubts in Murder Case." That is the case of Clifford Henry Bowen.

And then recently, "Judge Apologizes, Frees Two Men In 1973 Murder." Prosecutors in this one joined the defense seeking their release. That is for a 1973 murder. This is a 1992 article. Here is 20 years in prison for a crime they did not commit.

This goes on and on. And I have set forth in great detail in prior remarks on this floor, and I will again tonight, cases of error. But I want to focus on one case because people rightfully say, well, what about the person who pleads guilty? How about the most obvious case. How about someone who pleads guilty to murder where you cannot make a mistake?

This is not a situation then when it is based on identification testimony, or where it is based on circumstantial evidence, or where it is based on hair samples. How about a case where someone pleads guilty to murder. How about capital punishment?

Well, we have a recent case of a mistaken plea of guilty, where an innocent man pled guilty to murder. How about that one?

The case of the Commonwealth of Virginia versus David Vasquez. Here is the plea. I am going to read it. It is going to take some time but I am going to read this to you. This is not 1970's. This is not 1960's. This is not 1950's. This is mid-1980's, Virginia. America. It can happen anywhere. The fact that it is in Virginia is not relevant. It happened to happen in Virginia.

The Court says:

The COURT. All right. Now Mr. Hudson has presented to me here some papers that is called a plea agreement memorandum relating to these cases which were scheduled to come on for trial today with a jury. I would like to ask that the defendant and his attorneys stand please. Which of you gentlemen will be speaking for the defense? Mr. Bangs?

Mr. BANGS. Yes, Your Honor.

The COURT. All right. Mr. Bangs have you reviewed and read this agreement with the defendant?

Mr. BANGS. Yes, Your Honor.

The COURT. And does it state everything that should be in the agreement?

Mr. BANGS. Yes, Your Honor.

The COURT. And have you been over it with your client?

Mr. BANGS. Yes.

The COURT. Now I would like to ask the defendant this, do you read English?

Mr. BANGS. Yes.

The DEFENDANT. Yeah, but not too good.

The COURT. Not too good. Did you read this memorandum?

The DEFENDANT. I had them read it to me.

The COURT. Did you read it to him?

Mr. BANGS. Yes, Your Honor.

The COURT. When it was in its written form.

Mr. BANGS. I went over it line by line, Your Honor.

The COURT. And did you explain to him not only the meaning of the words that may be identified there that is the legal language, but also explain to him the legal implications that are printed in those words?

Mr. BANGS. Yes, Your Honor.

The COURT. All right and I would like to ask him have you been completely satisfied with the services of your attorneys?

The DEFENDANT. Yes.

The COURT. And you gentlemen are retained, is that correct?

Mr. BANGS. No Your Honor, court appointed.

The COURT. Court appointed.

Mr. BANGS. Yes, Your Honor.

The COURT. Both of you?

Mr. BANGS. Yes, Your Honor.

Mr. MCCUE. Yes sir.

The COURT. All right, now did you explain to him all of the offenses with which he is charged and that the Commonwealth must prove the offenses beyond a reasonable doubt in order to obtain a conviction in those offenses and that they must be proved beyond a reasonable doubt.

Mr. BANGS. Yes, Your Honor.

The COURT. Is that correct?

The DEFENDANT. Yes.

The COURT. And did he tell you all the facts about the case and the offenses so that you could prepare a defense for him?

Mr. BANGS. Yes, Your Honor.

The COURT. Now in this plea that I have been tendered here there are two offenses to which he is entering Alford pleas.

Mr. BANGS. Yes.

The COURT. Now the pleas to which he is entering an Alford plea I believe it comes from a United States Supreme Court case known as Alford against North Carolina.

Mr. BANGS. That is correct Your Honor.

The COURT. Now I would like to have this explained to him if he does not understand what I am saying. Then I want you to explain it to him what I am saying and that it is a tactical decision to enter this type of a plea by someone who believes that he did not commit the offense and does not know the facts of the case or claims that he does not know the facts of the case or this type of a plea is made by someone who feels that it is better to enter a plea than to put his case before a jury under these circumstances.

Mr. BANGS. Yes, Your Honor. I believe it is the second alternative.

The COURT. And did it appear to you in your discussions with him that he understood that he was entering a plea in this case, an Alford plea based on Alford against North Carolina?

Mr. BANGS. Yes, Your Honor.

The COURT. And that he intends to enter such a plea.

Mr. BANGS. Yes, Your Honor.

The COURT. Did you explain to him, however that a plea based on Alford against North Carolina is a plea.

Mr. BANGS. Yes, Your Honor.

The COURT. A plea under Alford versus North Carolina is no less of a plea because he is entering the plea under the doctrine of that case.

Mr. BANGS. Yes, Your Honor we explained to him that for all intent and purpose it is a straight plea.

The COURT. Regardless of its meaning or whatever reservations he may have with it.

Mr. BANGS. Yes, Your Honor.

The COURT. Now the plea agreement memorandum goes into great length as it should do about the rights that the defendant waives. One of the rights that he waives in a criminal case is a trial by jury.

Mr. BANGS. Yes, Your Honor we outlined them completely.

The COURT. There are three other rights however that I think are extremely important and I would like to mention those. He waives his right to have his case tried by a jury and by entering a plea he waives his right to a jury trial. Does he understand that?

Mr. BANGS. Yes he does.

The COURT. Do you understand that?

The DEFENDANT. Yes.

The COURT. You understand that.

The DEFENDANT. Yes I do.

The COURT. And also when entering a plea you waive your right not to give evidence against yourself, your right to remain silent under the Fifth Amendment. You waive that right when you enter a plea. Did you explain that?

Mr. BANGS. Yes, Your Honor.

Mr. MCCUE. Yes.

The COURT. And thirdly that you waive your right to an appeal that is if you were convicted on a plea of not guilty you would have a right to have your case heard by the Supreme Court of Virginia and if you were without funds to hire an attorney the state would appoint one for you if you were convicted on a plea of not guilty. However, there is no appeal. The case is final in the trial court. There is no review of either the conviction or the sentence. Both are final in this court. Do you understand that?

The DEFENDANT. Yes.

The COURT. Have you ever been sentenced to the penitentiary of Virginia before?

The DEFENDANT. No, Your Honor.

The COURT. And I ask the defendant the decision to enter these pleas albeit under the doctrine of Alford versus North Carolina it is your own decision after consultation with your attorneys.

The DEFENDANT. Yes.

The COURT. Is that correct?

Mr. BANGS. Yes, Your Honor.

Mr. MCCUE. Yes.

The COURT. All right the Court finds that in the case of C22215 wherein the defendant has entered a plea under the doctrine of Alford against North Carolina, the Court finds that the plea has been voluntarily and intelligently tendered to the offense of common law burglary.

In the case C22216 the Court finds that the defendant's plea has been voluntarily and intelligently tendered under the doctrine of Alford against North Carolina and the plea to that offense is that of second degree murder.

Do you care to proffer evidence?

Mr. HUDSON. Your Honor if the Court please I would like to have Detective Robert Carrig and Detective Shelton sworn as witnesses.

The COURT. Now is either one of you seeking a rule on witnesses?

They go into what they found at the scene. I think this is important because there is a lot of very sincere feeling on this floor about facts in criminal cases, and they are horrendous. And when you get into the facts of criminal cases it is very difficult to then render a judgment about whether or not you should, whether or not capital punishment deters, whether or not we makes mistakes as the facts are so overwhelming.

The horrors are so incredible that are inflicted on people that it makes it difficult to render a judgment as to whether or not capital punishment either deters or makes sense because of the possibility of a mistake.

So I want to read these facts because these facts occurred in a case where somebody pled guilty, somebody who was innocent.

I read as follows:

Q. You are Detective Robert H. Carrig of the Arlington County Policy Department.

A. Yes.

Q. You are in the Robbery-Homicide Squad and the detective assigned to investigate this case, is that correct?

A. Yes.

Q. Detective Carrig, directing your attention to the 25th of January 1984 did there come a time on that day that you were called to 4921 South 23rd Street in Arlington County?

A. Yes.

Q. Do you recall what time of the day it was?

A. I believe it was 1 p.m. in the afternoon.

Q. Had the scene already been secured by other Robbery-Homicide investigators?

A. Yes.

Q. And in what type of an area is 4921 South 23rd Street located?

A. A residential area, residential homes.

Q. And upon your arrival where did you initially direct your attention?

A. To the basement area of the house.

Q. What if anything did you observe in the basement area of the house when you arrived in that area?

A. I came down the stairs leading to the basement into a small rec room type of room. Off to the right there was a large rolled up rug with rope tied around it and on top of the carpet there was a knife.

Q. I would like to show you Commonwealth's Exhibit 1 and 2 and I ask you if you can identify the scene in the photographs.

A. Yes.

Q. What is depicted in the photographs?

A. It is the rolled-up carpet with the rope around it with an ankle coming out on the right.

Q. And what is depicted in Commonwealth's Exhibit 2?

A. It is likewise a closeup of the carpet with the rope around it and the knife leaning on top of the carpet.

Q. Now Detective, as you walked through the basement what if anything did you encounter?

A. As I turned towards the next room which is the laundry room I observed a white female nude lying on the floor facing the garage. Her hands were bound. She was lying on her back.

There was a rope around her neck extending up over a pipe and out towards the garage and it was tied to an automobile parked inside the garage.

The COURT. Are you going to move for the admission of any of these?

Mr. HUDSON. I will ask that they be admitted at the end of the hearing if it please the Court.

The COURT. All right.

Q. I show you what has been marked as Exhibit No. 3. Do you recognize the scene depicted in the photograph?

A. Yes.

Q. That is a picture of the victim lying on the floor in the laundry room.

Q. And let me show you Commonwealth's Exhibit No. 4. What does this depict?

A. This is a picture from another direction of the area showing the victim lying on the floor with the rope around her neck extending to the bumper of the vehicle.

Q. Let me show you Commonwealth's Exhibit No. 5.

A. This shows the garage area with the rope coming down where it is actually tied to the bumper of the vehicle inside the garage.

Q. I believe you mentioned Detective Carrig that the hands of the deceased had been bound, is that correct?

A. Yes.

Q. About how many times were her hands wrapped?

A. Her hands were wrapped about ten times sir.

Q. Now with respect to the garage area where was the car located?

A. It was right there when you opened the door to the garage.

Q. In what condition did you observe the doors?

A. The door in the garage through which the vehicle passed was down and secured. The side door was ajar.

Q. Now I believe you mentioned a laundry room area. What did you observe in the laundry room area?

A. I observed a washer and a dryer and a desk which was directly next to a small window leading to the outside. There was a hose from the dryer leading up to the window and there is a steel plate that holds the hose to the window. The hose passes out the window.

I observed that the hose and the hole in the window had been kicked and forced and had been removed from the window.

Q. Now with the respect to the dryer vent to which the hose had been attached, what did you observe about this area?

A. I observed the hose lying on top of the desk which was near the window.

Q. Was there anything particular about the hose that drew your attention?

A. Directly near the window the hose was lying on the wooden desk and I observed steps which appeared to be squashed down on it.

Q. And did you have occasion to examine the exterior of the window?

A. Yes I did.

Q. What conditions did you observe Detective Carrig?

A. Immediately below it appeared that the window had just been opened and the pieces of bolts that hold the plate in were sheared off.

Q. Did you have occasion to inspect the floor of the house?
A. Yes.
Q. Did you pass through the dining room area?
A. Yes.
Q. What if anything in the dining room area drew your attention Detective Carrig?
A. On the dining room table there was a box, a camera box. However there was no camera visible.
Q. And what type of a camera box was it?
A. Alpha.
Q. And did you have occasion to ask any of the people at the crime scene, police agents to examine the house for such a camera?
A. Yes.
Q. Who did you ask?
A. Some of the people at the scene to look to see if they could find the camera belonging to the box.
Q. Okay did you have an occasion during the course of your investigation to discuss the camera with any individuals who may have loaned it to Miss Hamm?
A. Yes I did.
Q. What did you learn from your discussions?
A. The camera had been borrowed so that the victim could take it on a trip to I believe South America. A couple of days thereafter we discovered she was due to leave.
Q. Now did you next after you finished the examination of the dining room area proceed to the living room area?
A. Yes I did.
Q. I show you Commonwealth's Exhibit No. 6 and I ask you whether or not you recall the scene in that photograph.
A. Yes.
Q. Now Detective Carrig directing your attention to the red robe and blue blanket. Does this photograph accurately reflect the condition of those items when you observed them?
A. Yes.
Q. Did you have occasion during the course of your investigation to transfer that blanket and robe to the Northern Virginia Crime Laboratory?
A. Yes I did.
Q. And did you also have occasion by court order to secure a sample of the defendant's pubic hairs?
A. yes.
Q. And what was the result of the examination?
A. The contents of the blanket and robe were compared with the pubic hairs of the defendant.
Q. And what was the result?
A. The pubic hairs found on the blue blanket were consistent with that of the defendant.

Mr. ADAMS. Will the Senator from Michigan yield for a question?

Mr. LEVIN. I am happy to yield for a question.

Mr. ADAMS. I wonder if we could enter into some kind of a time agreement on the second-degree amendment, so that Senator SHELBY might make some remarks, so that I might make some remarks, and Senator BOND, if he wishes to. Then if that amendment is adopted, why the matter would move out of this body. If it did not, then, of course, the Senator, I assume, would want to have his rights to address the Shelby amendment, and they would argue back and forth on that.

Mr. SHELBY. If the Senator from Michigan will yield, if the Senator from Washington proposes a time agreement on the second degree on the Adams amendment, I wonder if the Senator from Michigan will entertain that. Would he further entertain at the same time as part of the unanimous consent a time limit on the Shelby amendment on whether we could get an up-or-down vote on that?

Mr. LEVIN. I am unable to agree to a time agreement on the Shelby amendment, because I think there would be a number of people who would want to speak on the death penalty issue.

Mr. SHELBY. There might be a number of people, I do not know this, that might want to speak on the Shelby amendment, which is on the death penalty.

Mr. LEVIN. There would be a number of people who would want to speak on the Shelby amendment.

Mr. SHELBY. One way or another.

Mr. LEVIN. Sure, because I think that subject is a subject of great importance. And to put that subject on this appropriations bill is obviously going to produce a lengthy and spirited debate. I was not suggesting on one side or the other; on both sides.

So I am unable to agree to a time agreement on the first-degree amendment. I have no objection to a unanimous consent on the first-degree amendment, is the direct answer to the question.

Mr. ADAMS. Could I propose then a unanimous-consent agreement that there be 20 minutes equally divided between the Senator——

Mr. LEVIN. I do not wish to debate the second-degree amendment at all. So I do not need to control time.

Mr. ADAMS. You do not need any time on the second-degree amendment?

Mr. LEVIN. On the second-degree amendment.

Mr. ADAMS. Mr. President, I ask unanimous consent that there be 20 minutes, equally divided, on the second-degree amendment that I have offered, the time to be controlled in the usual fashion by the Senator from Washington and the Senator from Missouri, and I state to the Senator from Alabama, I will yield him half of my time.

The PRESIDING OFFICER (Mr. BREAUX). Is there objection to the unanimous-consent request?

Mr. BOND. Mr. President, I find myself on the same side as the chairman of the subcommittee, on the second-degree amendment.

Mr. ADAMS. Then, in that case, I ask unanimous consent that the time be equally divided between the Senator from Washington and the Senator from Alabama.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, and I will not, for the reason indicated. I will ask for a ruling of the Chair on, if I yield the floor now, whether or not my speech so far would count against the two-speech rule on the underlying first-degree amendment?

The PRESIDING OFFICER. The Chair will state to the Senator from Michigan that there will be two separate pending questions; that any speech on the second-degree amendment would not count on any speech pertaining to the first amendment.

Mr. LEVIN. Mr. President, I am wondering if I can get a ruling of the Chair on whether or not my remarks so far would count as speech related to the first-degree amendment or to the second-degree amendment.

The PRESIDING OFFICER. It is the Chair's understanding that the speech of the Senator from Michigan would be recorded as a speech on the second-degree amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. ADAMS. Mr. President, to make it very clear, I modify my unanimous-consent request. I ask unanimous consent that the speech of the Senator from Michigan on the second-degree amendment be considered on the second-degree amendment, and that it would be violative of the two-speech rule and, on the amendment itself, he would be entitled to his full rights as though he had not spoken at all.

The PRESIDING OFFICER. Is there objection to the pending unanimous-consent request of the Senator from Washington?

Without objection, it is so ordered.

Mr. ADAMS. I yield the floor to the Senator from Alabama.

Mr. SHELBY. Mr. President, as I said earlier, I oppose the amendment offered by the Senator from Washington [Mr. ADAMS], which is a second-degree amendment, which basically would call for a referendum in the District of Columbia on the death penalty. But when would that referendum occur?

It says in the Adams amendment that it would take place on the ballot, without alteration, at the next general or special or primary election held at least 90 days after the enactment of this amendment, if it were to become law. When would that be?

The earliest it would be, more than likely, would be in 1994.

So I submit that the Adams amendment is a dilatory tactic. It is trying to thwart my efforts to bring a straight-up vote on the death penalty.

So I submit to my colleagues here in the Senate that, if you vote for the Adams amendment, you would vote basically against the death penalty, because the underlying amendment, the amendment that the Senator from Alabama has offered, calls for a death penalty in the District of Columbia, which we would enact, and we would not put it off or wait for a referendum.

As I said earlier, there has been 248 murders in the District of Columbia this year, 1992.

Since 1987, Mr. President, there have been 2,008 murders—2,008 murders—in the District of Columbia, when the last class that is maturing this year came to the Senate, 6 years ago. There have been 2,008 murders since then. There have been 248 murders this year, 1992.

So I submit to my colleagues in the Senate that this is the time to stand up for the people, to stand up for the victims, and go ahead and vote for the death penalty for the District of Columbia now—not delay it, not put it off, not succumb to hysteria, but to do something for law and order, to do something for the victims, and the future victims. And there will be future victims if we do not do something about it. This is our opportunity, and at the proper time I will move to table the Adams amendment.

At this time, I reserve the remainder of my time.

Mr. ADAMS. Mr. President, I ask for the yeas and nays on the Adams amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ADAMS. Mr. President, I will yield the floor in a moment so my colleague from Missouri can address this.

But I take this time to state why I have offered the amendment to send this as an initiative to the people of the District of Columbia.

I ask unanimous consent to have printed in the RECORD the letter from the Mayor of the District of Columbia, dated July 30, 1992, which I am going to quote from.

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

THE DISTRICT OF COLUMBIA,
Washington, DC, July 30, 1992.

DEAR SENATOR: I am writing to urge you to support H.R 5517, the FY 93 District of Columbia Appropriations Bill, and oppose any amendments that would violate or undermine the principle of Home Rule.

Specifically, I would like to address the death penalty amendment that is being circulated by Senator Richard Shelby. Briefly, this proposal would amend the U.S. Code to make homicides committed in the District of Columbia federal crimes triable in the U.S. District Court. The bill would give the U.S. Attorney the unfettered discretion to try homicides, and any crimes committed in the same incident, in the U.S. District Court for the District of Columbia. In certain aggregated circumstances, the District Court would be authorized to impose the death penalty for homicide. To defenders of states rights and local autonomy, Senator Shelby's proposal is expansive in its reach and would paralyze the efficient operation of the U.S. District Court for the District of Columbia.

Quite apart from the audaciousness of the proposal—no other federal district court in the United States has ever been asked to assume the additional burden of trying murder cases and the garden-variety of crimes often associated with them. It fails to recognize the significant progress we are making in the District of Columbia to toughen our stance on violent crime. Several weeks ago I appeared before a House of Representatives committee to outline the bold steps that the Council of the District of Columbia and I have taken to combat crime. It is clear to me, however, that the efforts we are making and our progress to date have gone unnoticed on Capitol Hill. I would like to outline these steps once again:

1. We have passed a bail reform law in the District of Columbia to make it tougher for violent offenders to receive bail. This law is perhaps the toughest bail statute in the nation.

2. The Council of the District of Columbia has passed a bill imposing life imprisonment without parole under appropriate circumstances.

3. I have sent to the Council legislation which would try certain juveniles committing the most violent crimes in our jurisdiction to be tried as adults instead of in the juvenile system.

4. Also pending before the Council is legislation I submitted to make changes to the length of detention in a juvenile facility.

5. I also submitted legislation to change the category of and penalties for some crimes in order to speed up and free up judicial resources.

6. We have aggressively sought and developed a partnership with federal crime fighting agencies such as the Federal Bureau of Investigations, the Drug Enforcement Administration, and the Department of Defense in order to stem violent crime, and we are making significant progress towards that end.

7. We have increased the number of officers who are on foot patrols in the District of Columbia.

8. We have also developed a specialized crime fighting unit called the Rapid Deployment Unit, which in some instances may even use SWAT team tactics to combat crime.

9. Since the beginning of the summer, we have targeted 22 different areas in the city to fight crime, among them, Capitol Hill. Since that time, we have made over 1,900 arrests, issued hundreds of warrants, confiscated drugs and cash, and other paraphernalia associated with the drug trade.

10. Under my direction, we have also implemented stricter parole practices at our Board of Parole.

In addition to these significant measures, both the Senate and the House of Representatives have passed legislation extending the jurisdiction of the Capitol Police. This legislation, when enacted, will aid us in our efforts to beef up foot patrols and the visibility of law enforcement officers. I also believe, as one who is on the front line of battling crime on a daily basis, that punitive measures, harsher penalties, and longer sentences are only part of the answer to growing crime in our communities.

It is for that reason that we have moved aggressively on the prevention and the early detection side of the ledger. Children's advocates, law enforcement officials, families, social scientists, and other experts grappling with urban problems have universally hailed my initiatives as a clear and refreshing break with past philosophies and a giant leap forward to deal with crime on the front end rather than the back end. We have rearranged governmental priorities, reflected in our budget, to meet this challenge.

Finally, the Senate may be more helpful in our fight against crime if it would pass, and urge other jurisdictions also to pass, legislation making it difficult to purchase a firearm, particularly semi-automatic weapons. The District of Columbia has one of the most stringent gun control laws in the United States. We do not sell weapons here. However, the flow of guns from neighboring jurisdictions remains unchecked. As we confiscate weapons in many drug raids we have, we find weapons that are here that come from neighboring jurisdictions and far away states.

I understand well that Senator Shelby and others on Capitol Hill have been personally touched by the violence in our community. So have I. It is not easy to talk to grieving families and to mourn with them as they have lost a loved one. But, sadly, this has become part of my job description as Mayor of the District of Columbia. Any urban Mayor can tell you the same story. There is not a single community in the District of Columbia which has been spared the violence that is prevalent around this country. Violence is a cancer. It must stop and it will. But we must be given the chance to let the measures we have put in place work.

The District of Columbia, as you know, is not alone in this wave of violence; crime is still high in jurisdictions around the country, and yet these communities—communities you represent—are permitted the freedom to solve their problems without the kind of Congressional assistance represented by Senator Shelby's proposal. Federalizing homicide and imposing the death penalty, here or elsewhere, are not silver bullets. This problem did not occur overnight and it will not be solved that quickly either. I would ask, respectfully, that you afford me and my constituents the same level of grace that you afford yours in combatting this problem.

Sincerely,

SHARON PRATT KELLY.

Mr. ADAMS. Mr. President, the Mayor writes—and I will quote excerpts, and I have put in the full letter. I think it is important that Senator SHELBY hear her comments and understands that no one is either condoning or misunderstands the hurt that he has suffered, that his staff has suffered, and the families have suffered, and all of the 489 people who suffered from homicides last year.

She writes as follows:

DEAR SENATOR: * * * Specifically, I would like to address the death penalty amendment that is being circulated by Senator Richard Shelby. Briefly, this proposal would amend the U.S. Code to make homicides committed in the District of Columbia Federal crimes, triable in the U.S. District Courts. The bill would give the U.S. Attorney the unfettered discretion to try homicides, and any crimes committed in the same incident, in the U.S. District Court for the District of Columbia. In certain aggravated circumstances, the District Court would be authorized to impose the death penalty for homicide. To the defenders of States' rights and local autonomy, Senator Shelby's proposal is expansive in its reach and would paralyze the efficient operation of the U.S. District Court for the District of Columbia.

Quoting again:

I understand well that Senator Shelby and others on Capitol Hill have been personally touched by the violence in our community. So have I. It is not easy to talk to grieving families and to mourn with them as they have lost a loved one. But, sadly, this has become part of my job description as Mayor of the District of Columbia. Any urban Mayor can tell you the same story. There is not a

single community in the District of Columbia that has been spared the violence that is prevalent around the country. Violence is a cancer. It must stop and it will. But we must be given a chance to let the measures we have put in place work.

The District of Columbia, as you know, is not alone in this wave of violence; crime is high in jurisdictions around the country and, yet, these communities—communities you represent—are permitted the freedom to solve the problem without the kind of congressional assistance represented by Senator Shelby's proposal. Federalizing homicide and imposing the death penalty here or elsewhere, are not silver bullets. The problem did not occur overnight, and it will not be solved that quickly either. * * *

I quote one last portion, which is another argument in addition to the others I have made, and others have made, as to why this matter should be set by referendum to the District of Columbia, and let the citizens decide; and that is that if we pass this amendment that federalizes homicides in the District of Columbia. This will absolutely overrun the district courts in the District of Columbia. And, as that happens, it will also push these matters that have been heard elsewhere into the superior courts. So we have a really aggravated problem here and I am hopeful that we will let the initiative process go forward, let the people of the District of Columbia decide it.

If they do decide for the death penalty, which they very well may, and they already have a proposal out there—that is why I am placing this proposal as a second-degree amendment, so it would be certain to appear on the ballot right away; then the matter would be tried in the District superior courts as the cases are tried now, and if there is to be a death penalty it would be imposed by the superior courts and we would not go into the district courts here and completely overload them by federalizing them.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have been a supporter of the death penalty. As Governor of Missouri I recommended and signed into law death penalty measures for my State.

But death penalties are in all other States tried as State and local offenses, as are rape, robbery, burglary, and aggravated assault matters.

I am concerned on this matter, on this particular underlying amendment, that the U.S. district court already has a large and growing criminal backlog. It has the largest criminal case trial load of any U.S. district court in the country. If homicides in the District are made into Federal crimes, the district court would be inundated with as many new cases as are already backlogged. As I have already noted, it would allow any related charge under the D.C. Code also to be brought into the U.S. district court. Transforming the Federal district court into Federal D.C. Superior Court.

Mr. President, I am persuaded by the eloquence of my good friend from Alabama that there may well be support and apparently is support for a death penalty in the District of Columbia. I believe that, like the death penalties which exist at State levels, the death penalty and its administration should not be transferred to the Federal court but left in the city or the local jurisdiction, and that is why I believe that the second-degree amendment proposed by my colleague, the distinguished chairman of the subcommittee, is the appropriate way to go.

We should encourage and promote the initiative and I, for one, would be in favor of it, but I would be in favor of it being adopted by the citizens and the residents of the District of Columbia so that is would not be a matter for the U.S. district courts. That is why I would urge my colleagues to support the amendment by SENATOR ADAMS.

I reserve the time and I yield the floor.

Mr. SHELBY. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Alabama has 7 minutes and 14 seconds.

Mr. SHELBY. How much time remains for the Senator from Washington?

The PRESIDING OFFICER. Senator ADAMS has 2 minutes and 44 seconds.

Mr. SHELBY. Mr. President, I yield myself such time as I may consume.

Mr. President, I ask unanimous consent that Senators STEVENS, SMITH, and GRASSLEY be added as original cosponsors to the Shelby amendment.

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

Mr. SHELBY. Mr. President, I will sum up my argument against the Adams amendment briefly. As I stated earlier, since 1987 there has been 2,008 murders in the District of Columbia. I think that might be the record. I do not know if it is the world record, but it has to be a record. As I said earlier today in my initial argument, there has been 248, Mr. President, 248 murders here in the District of Columbia in 1992 and August 1 is not quite here yet—248 murders?

So, I ask my colleagues in the Senate to think about this. Do you want to put off this, do you want to say, well, let us wait and see and let the people have a referendum on it in the District of Columbia? This is the Nation's Capital. This is our capital. It is a capital that the world looks at, every bit of news that comes out of here, good or bad. Are we going to delay this; are we going to vote on it now?

If you support the Adams amendment you would vote no on my motion to table that I will make in a few minutes. If you are for the death penalty, Mr. President, if you are for the death penalty, and if you believe that things have gotten out of hand, way out of hand in the District of Columbia as far as 2,008 murders since 1987, as well as 248 of them coming this year, now is the time to cast the vote for the victims and hope there will not be future victims, to cast a vote for law and order here in the District of Columbia, to send a message out all over the country that we are not going to just sit by and do nothing in the U.S. Senate.

Mr. President, I will yield back the remainder of my time if the Senator from Washington will consider the same.

Mr. ADAMS. I am pleased in a moment to do so. I just want to close.

Mr. President, I just want to close by saying my amendment would put this on the ballot this fall. That is its purpose; that is what is intended by it. If the citizens of the District of Columbia wish to put up another initiative on the death penalty they, of course, could do so. But this would assure that Senator SHELBY's amendment would go to the residents of the District of Columbia to be voted on this fall.

I think that is important that I make that point, because we have not, in my opinion, the time nor should we be trying to consider nuances of all the parts of the death penalty for a large city in the Congress of the United States. But I recognize very much the hurt that the congressional families have suffered.

I personally am not a person that is opposed to the death penalty as are many Members of this body. I have been a United States attorney. I have had to ask for the death penalty when I had the assassination of certain police officers by bank robbers. But I want to be certain that this matter is passed upon by the members of the community. This is really a States rights issue as well as a death penalty issue.

What I am concerned about—and this is my final remark and I will yield back the remainder of my time afterward—is if my amendment does not pass and then we go to Senator SHELBY's amendment, I am concerned we will have a filibuster about that, as there are people opposed to the death penalty, as happens each time. And I do not know how long we will be here. I hope we can vote on this, because I know of only one other amendment on which we have a time agreement and one other amendment we could accept and we could complete this bill by 6:30 tonight. I would be hopeful that we could do so.

With that, I ask for the yeas and nays. I know that Senator SHELBY has some time remaining. I am pleased to yield back the remainder of my time and go immediately to the vote on my amendment. We have had the yeas and nays ordered. I hope we will vote at this time. I say to Senator SHELBY I am prepared to yield back the remain-

der of my time and go immediately to a vote. We asked for the yeas and nays. They have been ordered. I would like to vote on the amendment.

Mr. SHELBY. I concur in that and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington yields back his time.

Mr. SHELBY. Mr. President, I move to table the Adams amendment.

The PRESIDING OFFICER. The question is on the motion to table the Adams amendment.

Mr. SHELBY. I ask for yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Washington.

On this question, the yeas and nays have been ordered, and the clerk will 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 Vermont [Mr. JEFFORDS] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—50

Bentsen	Exon	Nickles
Bingaman	Ford	Nunn
Boren	Fowler	Pressler
Brown	Garn	Pryor
Bryan	Graham	Reid
Bumpers	Gramm	Roth
Burns	Grassley	Rudman
Byrd	Hatch	Seymour
Coats	Heflin	Shelby
Cochran	Hollings	Simpson
Conrad	Johnston	Smith
Craig	Kasten	Specter
D'Amato	Lieberman	Stevens
DeConcini	Lott	Thurmond
Dixon	McCain	Wallop
Dole	McConnell	Warner
Domenici	Murkowski	

NAYS—45

Adams	Danforth	Kennedy
Akaka	Daschle	Kerrey
Baucus	Dodd	Kerry
Biden	Durenberger	Kohl
Bond	Glenn	Lautenberg
Bradley	Gorton	Leahy
Breaux	Harkin	Levin
Chafee	Hatfield	Lugar
Cohen	Inouye	Mack
Cranston	Kassebaum	Metzenbaum
Mikulski	Riegle	Sasser
Mitchell	Robb	Simon
Moynihan	Rockefeller	Wellstone
Packwood	Sanford	Wirth
Pell	Sarbanes	Wofford

NOT VOTING—5

Burdick	Helms	Symms
Gore	Jeffords	

So the motion to lay on the table the amendment (No. 2796) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Washington.

Mr. ADAMS. Mr. President, I have had some discussions with the author of this amendment. We have now had a vote on it. I am going to offer another second-degree amendment which would say that the election must be held on the initiative within 90 days after the enactment of this Act. So what I am trying to do is to have this matter decided by the people within a jurisdiction and not have it decided in this body.

I am hopeful that the Senator from Alabama will agree—the election must be held within 90 days after enactment, that means it has to be held this fall—with me as he has privately, and we will do this because, if not, what we are faced with in this body is the potential of a filibuster, that could last for a very long time, on the death penalty. This is a long-running issue of enormous importance to a number of people in this body and I understand that. I understand the personal feelings that are involved. My heart aches for a lot of people who are involved, and I am looking for a way out.

I will state to the Members who are here and those who are watching that Senator BOND and I are in agreement that we should send this for a vote to the District. Both of us happen to be people who are not fundamentally opposed to the death penalty. We have a number here who are fundamentally opposed. If we impose this as a Congress, they are going to filibuster.

I have an hour's time agreement with Senator LOTT, and we may not use all the time on his amendment. I said to Senator MCCONNELL—he wishes to offer his amendment—we are prepared to accept it, we are pleased to have him offer it and make a speech and it will not take long. We can be out of here by 6:30 or be into a filibuster. I will take it either way because that is what we all get paid for.

I am hopeful the Senator might be willing to go along with this: They vote within 90 days in the District on this matter and thereby have that vote and that would accomplish the fact—and I would not ask for the yeas and nays on it. We might be able to vote on it by voice vote and proceed, and he would have accomplished his purpose, having a vote and the people vote on it. If they do not vote on it, then you all can come in here in January and vote anything you want. But I am trying to get this bill to move in this fashion now. I am hopeful because the Senator from Missouri has been very kind to agree with me on this. I hope the Senator from Alabama can at this point. I send this amendment to the desk.

Mr. SHELBY. Will the Senator from Washington withhold and yield for just a couple minutes?

Mr. ADAMS. I am just going to send my amendment to the desk.

AMENDMENT NO. 2797 TO AMENDMENT NO. 2795

(Purpose: To provide for a local initiative to increase the penalties for murder in the District of Columbia.)

Mr. ADAMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2797 to amendment No. 2795.

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

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

The amendment is as follows:

Strike all after the first word and insert the following:

——. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at the next general, special or primary election held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

"*Be it enacted by the Electors of the District of Columbia*, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be pun-

ished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. 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. ADAMS. Mr. President, I would request of the Senator from Alabama and others that we might temporarily set aside this amendment and proceed with the amendments that we have agreed upon and the amendments on which we have a time agreement. I would ask unanimous consent that we might proceed first with the McConnell amendment, which the managers have indicated they would accept but he wishes to present, and immediately upon completion of the McConnell amendment we proceed with the Lott amendment, which we already have a time agreement of 1 hour upon, and that at the conclusion of the Lott amendment we return to the status where we are now which would be the Adams second-degree amendment.

Mr. LEVIN. Will the Senator withhold that request, because I would like to note the absence of a quorum and have the opportunity to discuss this with a number of people. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. 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. ADAMS. I renew my unanimous-consent request that we proceed first with the McConnell amendment on the basis that I mentioned and then with the Lott amendment, then we would return to the second-degree amendment that I have offered and we would try to see if we can get an agreement on that which we will be negotiating while these amendments are being presented.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky [Mr. MCCONNELL] is recognized.

AMENDMENT NO. 2798

(Purpose: To repeal the prohibition in the District of Columbia on individuals carrying self-defense items such as Mace)

Mr. MCCONNELL. Mr. President, on behalf of myself, Mr. BURNS, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. MCCAIN, and Mr. GORTON, 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 Kentucky [Mr. MCCONNELL], for himself, Mr. BURNS, Mr. SMITH, Mr. CRAIG, Mr. NICKLES, Mr. MCCAIN, and Mr. GORTON, proposes an amendment numbered 2798.

Mr. MCCONNELL. 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:

That (a) section 2302 of title 6 of the District of Columbia Code is amended by—

(1) striking subparagraph (C) of paragraph (7); and

(2) redesignating subparagraphs (D) and (E) of paragraph (7) as subparagraphs (C) and (D), respectively.

(b) The amendments made by subsection (a) shall take effect on January 1, 1993.

Mr. MCCONNELL. Mr. President, the amendment I am about to offer I understand is acceptable, but I would like to explain it to Members of the Senate.

I suppose one could object to this amendment on two grounds, one legislating on an appropriations bill, but of course as we all know we do that from time to time. And the other objection that could be lodged is that in some way interfering with concepts of home rule for the District of Columbia. Of course, that carries a good deal less weight these days given the fact that in the House of Representatives yesterday some of the strongest advocates for home rule were attempting to legislate where the Washington Redskins play football. So I think those reservations seem to me to carry less weight in this current environment.

Let me explain what my amendment would do. It would give the residents and the visitors in the Nation's Capital, and this is particularly important for women, a means of defending themselves against violent crime. It would restore to the residents and visitors in the District of Columbia the right to carry Mace, which is obviously an effective crime deterrent and means of self-defense. I might add parenthetically that the D.C. City Council has said off and on over the last 10 years that they were going to repeal the 1982 prohibition against the use of Mace but somehow they never get around to it. And so I think it is time for us to act because, after all, it is not just the people, the residents of the District who are incapable of defending themselves: it is also our constituents who visit here in large numbers every year.

Mr. President, it is not news that people in this city are in the grips of a violent crime epidemic. Residents, Members of Congress, staff, have been terrorized, brutalized, and even murdered, as Senator SHELBY has pointed out so graphically this afternoon.

People in every quadrant of the city are at risk, and thanks to the District government, they are virtually and legally defenseless.

Mr. President, women are particularly at risk from and concerned about random violence. For women who are approached by an assailant, losing cash and credit cards are the least of their concerns. They also experience incomprehensive fear of being raped.

Mr. President, our own staffs know only too well the danger everyone who enters the city finds themselves in—walking to the cars, going to the Metro, going home in the dark. It sort of goes with the job.

Senators who might question the merits of this amendment should ask the young women and men on their staffs how they feel about walking after dark with no defense to Union Station, to the Metro, or to the parking lot, or for that matter walking home to their houses here on Capitol Hill.

This amendment will give staff along with everyone else in the Nation's Capital a means of protecting themselves with something other than their car keys, ID cards, or fingernails.

Mr. President, Capitol Hill is frightening enough. We did not begin to comprehend the pure terror residents in other parts of the city experience day in and day out. The only time most of us go anywhere near the most dangerous parts of the cities is if we get lost. But there are others who come here.

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 the city. While touring here, 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, that experience is frightening and enraging. The worst result in her view was that "the law left me vulnerable," as she put it, in a city that, by its own admission, is perilous and crime ridden.

Mr. President, that about sums the situation up.

Another dramatic and tragic illustration of the need for this bill—a year and a half ago a man attacked a woman who was walking home from church in the District. He grabbed her from behind. She took the Mace from her purse, sprayed it on the assailant, and she 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.

Mr. President, she had nothing to defend herself with. He grabbed her, dragged her in an alley, and raped her. He was caught, convicted, and soon will be sentenced.

Mr. President, his victims have already been sentenced to a lifetime of coping with the physical and psychological trauma of rape. Granted this amendment is no panacea. It will not stop rape or random violence that terrorizes this city. It would, however, reverse the concerned situation whereby women in particular have been forced to give up one of the only means available to defend themselves, that is, short of carrying a gun which is also not legal in this city, of getting a black belt in martial arts, or of walking with a large protective dog.

I understand some women have even resorted to carrying Easy-Off oven cleaner in lieu of Mace as a means of their defense. There will now be a call to ban the sale of Easy-Off.

My amendment bolsters the efforts of the concerned city council members and citizens who are working to rescind the Mace ban. It gives D.C. officials until January 1, 1993, to act on their own to rescind the ban. If the local officials do not take the initiative, this bill would do it for them.

Mr. President, I have discussed this matter with the distinguished Senator from Washington, the manager of the bill, and I would like to ask him at this time if he would be willing to fight to retain this amendment in conference with the House.

Mr. ADAMS. Mr. President, I would be pleased to accept the amendment, and, yes, we do intend to hold this in conference and to fight for it. We will notify the Senator if we are having an impossible situation because the District council has under consideration legislation to accomplish this.

A hearing will be held shortly after Labor Day with final action planned December 18, 1992.

So the Senator's amendment would not take effect until January 1, 1993, after the calendar's final action. Therefore, the District will have had an opportunity to act on it independently, and will not have had to be imposed on by congressional mandate. But if they do not act, then it would take effect.

So I am prepared to fight for the amendment in conference, and Senator BOND and I will be in touch with the Senator if we are unable to accomplish that. We will accept the amendment.

Mr. MCCONNELL. Mr. President, I might just say in one further observation to my friends from Washington and Missouri, for 10 years this has been on the agenda at one time or another. That is why the amendment is necessary. We are hopeful that with the additional nudging, this issue, by this amendment, they will, in fact, act on time.

Mr. BOND. Mr. President, I can assure my friend from the State of Kentucky that we agree with the wisdom of his measure, and we will certainly do what we can and support it very strongly in the conference committee. I know of no objection on this side.

Mr. ADAMS. There is no objection, and I know of no further debate on this amendment.

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

The amendment (No. 2798) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi [Mr. LOTT] is recognized.

AMENDMENT NO. 2799

(Purpose: To prevent the District of Columbia from implementing a system of registration for unmarried, cohabiting homosexual, lesbian, and heterosexual couples in the Nation's Capital in order to sanction such relationships and to grant such unmarried couples certain rights and benefits traditionally reserved for couples who have entered into the legally enforceable bonds of matrimony)

Mr. LOTT. 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 Mississippi [Mr. LOTT], for himself, and Mr. COATS, Mr. SMITH, and Mr. BROWN, proposes an amendment numbered 2799.

Mr. LOTT. 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:

"No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.".

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from Washington for his cooperation in making it possible for me to offer this amendment in such a way that it could get direct consideration.

I want to say, too, before I begin, how much I appreciate the very important and tough work that the two Senators that are handling this legislation have in bringing legislation to the Senate that does the job, and that we can support. I know it is difficult when you have a number of Senators who are offering amendments to this particular jurisdiction. But I feel that these amendments are very important.

It is like the amendment with which we were just dealing. It is vital. We have not only a right but a responsibility to address some of these problems in the District of Columbia.

But I do appreciate the job that the Senator from Washington and the Senator from Missouri are trying to do.

Mr. President, as I understand it, we have 1 hour, equally divided, in the time.

The PRESIDING OFFICER. That is correct.

Mr. LOTT. I know at this hour some of my colleagues who wanted to speak may be indisposed. We will just see how the time actually goes along.

Mr. President, this amendment, the gist of it, is to say that no funds made available pursuant to any provision of this act shall be used to implement or enforce any system of registration of unmarried cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

I offer this amendment because I oppose very strongly the implications of the District Domestic Partner Act, also called the District of Columbia Health Care Benefits Expansion Act of 1992, because I think it seriously undermines fundamental family values. It is fundamentally unfair, and there is a cost involved for the Federal Government if this is allowed to stay on the books of the District of Columbia.

Instead of providing incentives or support for the institution of marriage, it legitimizes and extends benefits to relationships outside of marriage. The District of Columbia Domestic Partnership Act sends the wrong message to families of the District of Columbia, and to the rest of the Nation.

It was passed under pressure from special interests, not as a result of

broad support in the community. In fact, the reason I am involved in this issue today is because a group of six Washington ministers of the Gospel came to my office and asked me to work with them against this measure.

I do have a list of groups that are supporting this amendment which opposes the District of Columbia Domestic Partner Act. The list includes the District of Columbia Baptist Missionary Conference, representing 400 churches and 200,000 members and citizens of the District; Focus On the Family; Family Research Council; Coalition for Traditional Family Values; and the Southern Baptist Convention, which, of course, is the biggest Protestant denomination in the United States.

The local legislation would allow both heterosexual and homosexual couples to register with the city as domestic partners. Those who work for the District government would be able to extend health care benefits to their domestic partner.

The act would further erode the need to enter into a marital commitment and reduce the relevance of a traditional American family. It comes at a time when our Nation is crying out for strong family values and structure.

Consensus has emerged among social scientists and community leaders that the health of the family unit determines the overall health of our society. Our educators, business community, social services, law enforcement agencies, and the church, all cite the family as a key element for the societal problems we face, and for the problems that we would like to solve in the future.

From a public policy point of view, we can pass emergency supplemental appropriations; we can increase our police forces; we can create innovative educational programs; but if our homes are not in order, we will never succeed.

The public policy decisions we make should, more than anything else, support and undergird a strong family unit. They should provide incentives for marriage and commitment. Unfortunately, our policies have failed to do this. In fact, we have promoted policies that have discouraged permanence, commitment, and responsibility. Now we are reaping some of the consequences.

A destructive and vicious cycle has developed. Over the last 25 years, we have witnessed a steady deterioration of family values, a record divorce rate, children born out of wedlock and in poverty. We have witnessed the manifestations every day of rampant violent crime, not just here, but all across America; problems with drugs; educational failure, and a fragmented Nation.

We must begin to take a stand for the family. We must make the difficult moral decisions of right and wrong, and we must reach the conclusion, based on evidence and moral precepts, that all lifestyles are not equal. We must decide that the institution of traditional marriage is preferable and superior, and our policies should reflect that conclusion and its moral imperative.

So it is for that reason, and for the ministers in the District of Columbia struggling to strengthen and promote these values, those dealing with the effects of broken families every day, that I am offering this amendment.

I will get into some of the effects of this bill and what it will do in terms of unfairness. The District of Columbia bill defines "domestic partners" as any unmarried couple over 18 years of age and living together, although no specified period of time is given. So that is a major concern. You can come in, move in 1 day, register, and perhaps be eligible for benefits.

A person may register a new domestic partner after a waiting period of only 6 months. Thereby, a person could feasibly put two domestic partners onto his or her health plan every year for the rest of his or her life.

This bill has national implications. The Constitution requires all States to give full faith and credit to the laws of other States and the District. How, then, would our States respond to the legal recognition of unions between unmarried heterosexuals or other couples?

A constitutional lawyer, from Notre Dame, testified on this before one of the House committees. He expressed real concern about what impact this could have in the States in terms of marital laws and property rights.

Some Senators have said "This bothers me because it could affect Virginia, Maryland, Washington State, Mississippi." Any of us could very well be affected by this. The District of Columbia Domestic Partner Act could affect the marital laws and property rights in States all over this Nation.

In fact the domestic partner registration provisions are not limited to the residents of the District. Couples from all over the country could come into the District, register, and then use that legal recognition to challenge the laws in States all across the country.

The act is not about the expansion of health care benefits. That is how it has been explained: "We are trying to cover more people with health benefits." But, as a matter of fact, of the 38,000 full-time D.C. city employees, only 3,500 may be eligible. The bill is intended as a means to officially recognize and sanction gay unions and cohabitation outside of marriage. That is what the real impact is.

The bill would not truly expand health care access, but it would increase premiums by 15 to 20 percent. There is no other law on the books anywhere in America that comes close to this, but the one place where there is something similar is San Francisco. It clearly has driven up the cost of the health care benefits.

Let me cite some of the unfairnesses and inequities in this legislation. Only new employees—those employed by the District after October 1, 1987—will be eligible for health care benefits. Because only those employees are enrolled in the D.C. Employees Health Benefits Program. So right at the opening, it is unfair, because it is only applicable to new people, because others are on a completely different program.

The act would also provide a tax deduction for private sector employers who extend health benefits to domestic partners, if their employees reside in the District.

A lot of people work in the District, but they do not live there. If you live in West Virginia, Virginia, or Maryland, you would not be eligible for this. Another inequity. Only new employees, and only District residents.

As a health benefits extension plan for D.C. employees, the act discriminates against legally married people. Listen to this now: It actually discriminates against people that are—legally, married couples—and may violate the equal protection clause of the Constitution. I will give you one example of how that works.

Under the act, an unmarried mother may form a domestic partnership with her unemployed adult child, and thus extend health care coverage to that child. A married mother may not. It actually undermines and hurts and works against married couples.

The bill would make the District the only government in the country to offer tax breaks to private employers who insure domestic partners.

The argument will perhaps be made: that no Federal funds would be used to implement the District of Columbia Domestic Partner Act. We know that argument, and we also know money is fungible. While we may actually fund one activity and not another in this case, it is more than likely, that in most instances, you rob from Peter to pay Paul. If we have Federal funds that are used in certain areas, then the District can use the money in other areas such as the registration of domestic partners.

So the argument that it really would not allow funds from the Federal Government, from the people of all the States, to go to this program just does not hold water here.

I do not want to take all the time, and perhaps we will need to engage in some questions and some debate further. But let me just conclude with this: My name is LOTT. And there was a Lot in history whose wife looked back, and she became a pillar of salt. Do you ever wonder, or do you recall what she looked back to see? She looked back to see a situation like this law would not only allow, but promote.

When we talk in America about traditional family values and traditional families, I think we all know what we are talking about. This legitimizes homosexual and lesbian couples living together, as well as unmarried heterosexuals. It encourages them to register, and gives them benefits, to the outright detriment of those who live in wedlock.

This is wrong. When I heard this reported on a local radio station one morning when I was getting ready to come to work, I could not believe it.

I did not want to do this, but after checking into it and meeting with ministers of the District of Columbia, I see no other way to deal with this problem.

And therefore, I offer the amendment, and I urge my colleagues to consider it, and hopefully to pass it.

I reserve the remainder of my time.

Mr. ADAMS. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Washington has 30 minutes remaining, and the Senator from Mississippi has 17 minutes.

Mr. ADAMS. Mr. President, I do not know if we will use all of our time or not.

But this is yet another assault on home rule, where the Senator before had put in a sense-of-the-Senate resolution. And what we may want to think about this particular bill, or not, does not offend me as much as our putting in specific legislation.

But even more so, I want it understood that this is a health issue. This deals with health insurance. And in my remarks, I am going to outline why the District was doing this. It does not have to do with the Old Testament, where Lot's wife turns and looks back at Sodom and Gomorrah. That is something entirely aside from the problem that is being addressed here.

The people of the District of Columbia, who do not have a representative in this body, have tried to expand health care and family and medical leave. That is what they have tried to do with this legislation. And what I am saying to my colleagues is: How can we work to give Americans access to affordable health care with one hand, and plan to take it away from people in the District of Columbia with the other?

How can we pass a Family and Medical Leave Act overwhelmingly, and deny the residents of the District of Columbia the same rights? This is hypocritical. This is unfair.

The D.C. Health Care Benefits Act, passed by the D.C. City Council overwhelmingly in April, was passed after thorough review. And here is what the situation is in the District of Columbia, and it is a special and specific situation. But my guess is it probably also exists in the State of Mississippi, the State of the proponent of this piece of legislation.

The Commission surveyed some 40,000 District government employees, and it found that about one-half of the employees are either single parents, live in extended families—in other words, going back and having to live with their parents—or live with domestic partners.

Twenty percent of these groups do not have complete family health coverage. These are the people who are most in need of affordable health care, and that is what this legislation authorizes. They are most in need of family leave and medical leave. The act is a reasonable response to a serious problem.

In a moment, I am going to read some of the groups in support of this. They will include the clergy from the New York Avenue Presbyterian Church, the First Congregational Church of Christ, George Washington University, Saint Paul's Episcopal Church of Rock Creek, the Metropolitan Council of the AFL–CIO, the D.C. Nurses Association, and Gray Panthers.

Why are these groups in support of this? Because it allows District government employees to extend their health care coverage, at 100 percent self-financing, to another adult with whom they share residence and have a committed relationship.

What can that be? That is your mother that lives with you. And that happens very often here in the District, where the mother comes back and lives with the single mother to take care of the family.

I would hope that before people rush to a conclusion that this is Lot's wife and Sodom and Gomorrah, that they look at what the real facts are here. This is not that kind of legislation. This is the kind of thing that exists throughout the United States.

I am going to ask unanimous consent to print in the RECORD a list containing information of domestic partner recognition in the United States, with the States that recognize it and the cities that recognize it.

I ask unanimous consent that this be printed in the RECORD.

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

DOMESTIC PARTNER RECOGNITIONS IN THE U.S.

In 1984, the city of Berkeley became the first municipality to enact domestic partner legislation. In the eight years since then, more than a score of other jurisdictions have enacted ordinances, rewritten policies, or issued executive orders recognizing non-traditional families.

As of March 1992, domestic partner organizing efforts are underway in the following jurisdictions: Chicago; Cambridge, MA; San Diego; Atlanta; Harrisburg, PA; New York City; Denver; Rochester, NY; and Wayne County, MI.

California Counties: Alameda,[1] San Mateo,[3] Santa Cruz.[2]

Cities: Berkeley,[2] [4] Berkeley Unified School District,[2] Los Angeles,[1] Oakland,[3] San Francisco,[2] [4] San Jose Unified School District,[1] Santa Cruz,[2] Santa Cruz Transit Employees,[2] West Hollywood.[2]

Texas, Travis County.[1]

Florida, West Palm Beach[1]

Delaware, Delaware State Personnel.[1]

Maryland, Takoma Park.[1]

District of Columbia.[1] [2] [4]

Massachusetts, Cambridge.[1]

New York, Ithaca,[4] New York City.[1]

Michigan, Ann Arbor,[4] East Lansing.[2] [6]

Wisconsin, Counties: Dane,[1] Dane County Regional Planning Commission.[1]

Cities: Madison,[1] Shorewood Hills.[5]

Minnesota, Minneapolis.[1] [4]

Washington, Seattle.[2]

Mr. ADAMS. Mr. President, what this act permits is to allow bereavement, sick, and parental leave. Private employers are not required to offer benefits to the domestic partners. But if they do, they are eligible for a local—local—tax deduction for the expense.

Overturning this law would deny self-financed health insurance coverage to grandparents, grandchildren, senior citizens, whose spouses have died, displaced homemakers, and the disabled who cannot live alone.

There are many people who are involved in committed relationships, who are adults that are living together, that are not involved in some type of relationship that people may or may not want to pass moral judgment on. I do not happen to want to pass moral judgment on it, but maybe other people do. But that is not what is involved here.

What the District was trying to do is extend family and medical leave, health insurance benefits, and a tax deduction not on the basis of some kind of sexual relationship, but on the basis of families that have to live together. Many families are living together in the District under the same roof, and they are trying to make ends meet. And they are trying, in this case, to have health coverage. And that is what we are trying to do.

This is a good idea that has been borrowed from cities like Seattle, Minneapolis, Ann Arbor, Ithaca, Los Angeles, and Santa Cruz, among many others. And a growing number of counties and local entities have similar laws: Alameda, San Mateo, and Santa Cruz, CA; Travis County, TX; Dane County and its Regional Planning Commission, in Wisconsin; and Delaware State personnel. In other words, this is spread all over the country.

The District's law will not cost the taxpayers a penny. If a District employee wants to add a domestic partner to his or her policy, the employee must pay 100 percent of the additional premium. So it is not our saving some kind of money in a funding bill, be-

[1] Bereavement/sick/parenting or other no cost benefit.

[2] Medical/dental/and other cost benefits.

[3] Dental (no medical) and other benefits.

[4] City-wide domestic partner registry.

[5] Non-traditional family discounts.

[6] East Lansing benefits passed by city council; facing court challenge in April 1992.

[7] New York City benefits enacted by executive order.

cause this is required to be paid for by the individuals.

The District's law will not increase employers' costs. As I said earlier, it does not require employers to offer benefits, although if they do, they will be offered a local tax break—a local tax break.

The District's law will not discourage marriage. People do not marry for health insurance. At least, I am hopeful they are not marrying for health insurance. I am hopeful they are marrying for love, and many other reasons.

The District's law does not sanction homosexual marriages as addressed here. It deals only with specific health benefits.

In closing, I would like to say that a number of religious and other groups are on record in support of the District's Health Care Benefits Act, and I have read the list before.

But I will state again that there is no attempt in this to enter into some type of debate about theological or evangelical or various other types of churches or to say that is what this is all about.

What we are trying to do is to allow people and allow employers to meet a specific, difficult situation. It was found by a survey of District employees that a committed relationship in a home may, as I say, involve a grandparent, may involve a mother, a father, may involve extended family of various types. And that should not be overturned by this Congress.

So I hope that we will not.

Mr. President, I reserve the remainder of my time, so the Senator may speak further. And I will offer a motion to table at the end of my period of time for debate, because I do not know how many Senators may wish to speak on the Senator's side.

I am reserving my time, with the right to return for final argument.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I yield 5 minutes to the distinguished Senator from Indiana [Mr. COATS].

The PRESIDING OFFICER. The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, we obviously have a difference of opinion this evening over what the nature and intent of this particular policy is of the District of Columbia.

In my opinion, having followed this somewhat and observed the history of the way in which this has come about, this is not debate over health policy. What it is is a debate over definition of a family and its legal future.

I begin with the conviction that I believe is justified by tradition and our own experience, that the traditional family is the foundation of a healthy social order.

It transmits life, and it transmits values. The legal and moral commitment of marriage brings stability to our lives, to our children, and to our culture.

But when we trivialize this most fundamental commitment of our society, we attack the family, and cripple its essential work.

The District of Columbia's domestic partnership legislation—deceptively renamed the Health Care Benefits Expansion Act—is a direct attack on the family and its values. I think it undermines the legal importance of marriage, and I think we ought to look at this as an attempt to do that.

The registration of domestic partners is a form of official government recognition and encouragement. That is certainly how it is viewed by its most vocal supporters. As one advocate has stated, "social sanctioning of domestic partnerships, in and of itself, is valued by domestic partners, particularly by gay and lesbian couples. That is, partners value the ability of their relationship to be recognized by the State, even without the receipt of benefits."

This legislation says that a commitment less than marriage is legally binding. And this cannot help but undermine the institution of marriage, the institution of the traditional family, which is already suffering from a number of different laws and regulations and interpretations.

The District of Columbia, our Nation's Capital, has sanctioned homosexual unions and heterosexual couples living together outside marriage. It has attempted to create a form of legal legitimacy in opposition to what I believe are the best of our moral and legal traditions.

The effect on health of this measure is almost nonexistent. The District estimates that the number of people affected by the act could be as few as 25. Its tax incentives beyond District government are likely invalid under Federal law.

What this really is, and I believe what the intent really is, is a symbol—symbol of disdain for the traditional family. It was not passed for the purposes of providing health benefits. In my opinion, it was passed in the cause of an ideology, and I do not believe we should fund a cent of it with Federal money.

I commend the Senator from Mississippi for taking on what is a difficult and a controversial issue, but one that I think is an important issue. And I think most of us know exactly what the intent of the District of Columbia was in passing this ordnance and in establishing this so-called domestic partners legal validity, and I believe we should treat it as such.

I intend to support, and hope that my colleagues will support along with me, the amendment of the Senator from Mississippi.

I yield back, Mr. President, whatever remaining time the Senator has yielded to me.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I do not have any request for additional time at this moment.

Does the distinguished Senator from Washington have an additional request?

Mr. ADAMS. I have no additional request. I am prepared to yield back the remainder of my time and make a motion to table, if the Senator is almost finished.

Mr. LOTT. I thank the Senator. One is always concerned about dragging these things out and staying late at night. I am prepared to yield back my time after I make a few closing remarks.

Mr. ADAMS. I am prepared to yield back my time.

Mr. CRANSTON. Mr. President, I rise in opposition to the pending amendment.

Frankly, I am saddened to see this amendment proposed. I believe that the facts of family life in the District of Columbia today—indeed, the facts of family life in America as a whole—argue for making health care benefits available to persons who live together as domestic partners.

When the District of Columbia enacted its Health Care Benefits Expansion Act of 1992 it simply recognized reality, and reality is that less than one-quarter of all families nationwide are so-called traditional families—that is, husband, wife, and children living together. All across this country there are elderly persons who live together but are unmarried; disabled persons who cannot live alone, unmarried heterosexual couples, lesbian and gay couples, or a grandchild and a grandparent each taking care of the other. These nontraditional families can be property owners, they often have children, and they live together in mutual support. In short, they are families—and yet they are unable to obtain the employer-based health care coverage that is available to members of traditional families.

Under the D.C. Health Care Benefits Expansion Act, D.C. government employees can buy—at full cost—health coverage for their domestic partners and family members. The measure offers a tax incentive to private employers who provide health care benefits to their employees' domestic partners and family members, but the bill does not require employers to provide benefits. District employees must pay the full cost of the additional family coverage.

Mr. President, I stand with the District of Columbia on this issue. This law was adopted overwhelmingly by the D.C. Council and signed by the Mayor. The law does not violate the Constitution, it does not violate the

Home Rule Act, and it does not violate the Federal interest. In fact, the bill provides broad taxpayer relief, in that as more people are covered by health insurance, costs go down for the government—when insured domestic partners and their family members no longer rely on Medicaid or emergency room service or any other government program for coverage of uninsured health care costs.

The Senate should follow the lead of the House and reject this attempt to overturn this District of Columbia law.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for supporting Senator LOTT's amendment regarding the District of Columbia's Health Benefits Care Expansion Act of 1992.

The purported goal of the District's law is very laudable—expanding access to health insurance. But I have serious questions about the means that were chosen.

The District's act allows a couple to register with the city as domestic partners, giving D.C. employees access to family coverage under employer-provided health plans as if they were a married couple, and offering private sector employers a tax deduction for providing employees with this option.

We all know the severe dysfunctions of the health insurance market. Over 35 million Americans have no health insurance; 20 million of those are employed individuals. The problem is most acute for individuals who work parttime or in very small businesses. People who work for large companies or the Government often have access to more affordable and more comprehensive insurance plans. Thus, I can appreciate the reason for this domestic partner law. Indeed, the D.C. City Council may have thought that by providing broader health insurance benefits, it could reduce the enormous burden of uncompensated care that depletes the resources of city hospitals and clinics.

However, the definition of domestic partner is a troubling one for me. Under the D.C. statute, domestic partners are an unmarried couple who live under the same roof and share a committed relationship, characterized by mutual caring. Why limit insurance coverage to these particular, personal relationships? Why not extend benefits to all persons who share a mutual residence?

Even under the more limited D.C. domestic partners definition, there will be tremendous uncertainty for insurers. Economists call it moral hazard, where individuals could establish relationships purely for the purpose of acquiring insurance coverage. The insurance market is already unstable. This type of provision, while it is commendable in spirit, simply is unsustainable as a business proposition. However, I intend to interview members of the D.C. City Council, and others, to learn more about the underlying intentions of this approach, and about the insurance problems that the District faces.

I have been committed to health insurance reform for many years. I have several bills pending that would significantly improve the insurance market, particularly for small employers. I am not insensitive to these serious concerns, and I will continue to work to promote universal access to affordable health insurance for all Americans.

Mr. LEVIN. Mr. President, I oppose this amendment because it is a blatant invasion of home rule in the District of Columbia. It does not simply limit the manner in which the District can use Federal funds. It also limits how the District can use the revenue that it raises from its own residents. If the concept of home rule is to mean anything, it is that the District has the right to legislate in areas that involve its own tax revenues affecting its own residents. The Lott amendment violates that most basic element of home rule.

Mr. LOTT. Mr. President, I thank again the Senator from Indiana for his participation here today. As he noted, and I want to remind Senators, the original title for this bill in the D.C. City Council was the Domestic Partner Act and, as I understand it, came as a response to a judge's ruling that the District's marriage statute did not permit homosexual marriages—even though the city's statute did not explicitly state that couples had to be of the opposite sex. Of course, the bill's title was subsequently changed later to the Health Benefits Extension Act as part of a calculated effort to deflect widespread public opposition to the provision in the District itself by recasting the bill in the most favorable light possible by trying to convey it as a health issue.

But, the D.C. law is not about extending health benefits to underserved populations in Washington. Its real purpose is to serve as the first step toward officially sanctioning homosexual marriages or unions in the Nation's Capital and, indeed, across the country. This provision, if it stands, will mark the first time that the equivalent of a State legislature has officially endorsed this kind of relationship of couples living together outside of marriage.

If the bill were truly an attempt to extend health coverage to unserved segments of the District's population—which they certainly need—then its domestic partnership registration procedure would be expressly limited to use by residents of the District—which it is not. As the law is drafted, every unmarried, homosexual, lesbian, or heterosexual couple living together in the Nation may register their relationship in the District.

In addition, the provision in the D.C. Act that provides a tax deduction for private employers who extend health benefits to those who register as domestic partners appears to be preempted by a section in the Federal Employee Retirement Security Act of 1974 [ERISA] according to several precedents established in the Federal courts. Thus, private sector employees may not be able to take the tax deductions set out in the law, yet another indication that the bill is not well thought out as far as extending health benefits.

Let me just quote from a statement that was made by a coalition of ministers that have a great interest in this issue. They appeared before a House committee. It took courage by these residents of the District of Columbia to come forth and take a stand and say this is wrong. But let me just read you a couple of paragraphs, and I think you will have a better understanding of why they did it, why the ministers would do this:

> Recently, a criminologist from American University stated that the reason children are working as assassins is because they have no respect for traditional family values. Our great city is in a great crisis. How can we teach our children right from wrong if the city officials and, in fact, the Federal Government endorse immoral behavior?
>
> In addition, the District government is party to deceitful behavior by passing an act which is antifamily and provides special rights for homosexuals under the guise of health care. This act does not truly address the city's health care problems. It is a farce. We are not opposed to health care. However, this act is simply bad law.

That is a quote from the statement of the ministers in the District of Columbia.

Mr. President, this is an opportunity for this body to define what we mean by family. That is what this debate is about. It is not about extending and expanding health care benefits.

Late studies show that only 25 District employees will actually realistically be given extended benefits. Maybe it will be more, but that is information we have been provided. The object of the legislation is to officially sanction and legitimize relationships outside of marriage.

This is one of the most important issues that we will face, I think, this year in this body, and I urge the adoption of this amendment.

Mr. President, I have no further requests for time. I think we have made our points on this amendment. If the Senator would like, I am prepared now to yield back the remainder of our time.

Mr. ADAMS. I am prepared to yield back the remainder of my time.

Mr. LOTT. I yield back the remainder of my time.

Mr. ADAMS. I yield back the remainder of my time and I move to table the amendment.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Washington [Mr. ADAMS] to table the amendment of the Senator from Mississippi [Mr. LOTT]. The yeas and nays have been ordered, and 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], the Senator from North Dakota [Mr. CONRAD], the Senator from Tennessee [Mr. GORE], and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. SEYMOUR], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

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

The result was announced—yeas 41, nays 51, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—41

Adams	Graham	Packwood
Akaka	Harkin	Pell
Biden	Hatfield	Riegle
Bingaman	Inouye	Robb
Boren	Kennedy	Rockefeller
Bradley	Kerrey	Rudman
Breaux	Kerry	Sanford
Chafee	Kohl	Sarbanes
Cohen	Lautenberg	Simon
Cranston	Leahy	Specter
D'Amato	Levin	Wellstone
Dodd	Metzenbaum	Wirth
Glenn	Mitchell	Wofford
Gorton	Moynihan	

NAYS—51

Baucus	Durenberger	McCain
Bentsen	Exon	McConnell
Bond	Ford	Murkowski
Brown	Fowler	Nickles
Bryan	Garn	Nunn
Bumpers	Gramm	Pressler
Burns	Grassley	Pryor
Byrd	Hatch	Reid
Coats	Heflin	Roth
Cochran	Hollings	Sasser
Craig	Johnston	Shelby
Danforth	Kassebaum	Simpson
Daschle	Kasten	Smith
DeConcini	Lieberman	Stevens
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner

NOT VOTING—8

Burdick	Helms	Seymour
Conrad	Jeffords	Symms
Gore	Mikulski	

So the motion to table the amendment (No. 2799) was rejected.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

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

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

Mr. President, I believe the Senator from Missouri moved to reconsider.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Mississippi.

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

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I do not require a rollcall on this, and I do not believe Senator Lott does.

The vote has been apparent, so if you want to put the question, why, we are prepared to vote by voice.

The PRESIDING OFFICER. Is there further debate on amendment No. 2799?

If not, the question is on agreeing to the amendment.

The amendment (No. 2799) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I send a modification—Mr. President, I make a parliamentary inquiry. Mr. President, it is my understanding that we return now—

The PRESIDING OFFICER. If the Senator from Washington will yield for a moment, the question would now occur on the committee amendment, as amended, on page 2.

Mr. ADAMS. Parliamentary inquiry. I have a second-degree amendment which was pending, and we return to that.

The PRESIDING OFFICER. That will recur after we dispose of the committee amendment.

Mr. ADAMS. The committee amendment.

The PRESIDING OFFICER. That is correct.

Mr. ADAMS. That is correct. This is Senator LOTT's amendment to the committee amendment, so we are voting on the committee amendment now that he amended.

The PRESIDING OFFICER. That is correct.

Mr. ADAMS. I thank the Chair.

The PRESIDING OFFICER. Is there is no objection, the committee amendment, as amended, is agreed to.

AMENDMENT NO. 2797, AS MODIFIED.

Mr. ADAMS. Mr. President, it is my understanding, and I make a parliamentary inquiry, that we return now to the second-degree amendment which I had offered to the amendment of the Senator from Alabama [Mr. SHELBY] and I offer a modification to that amendment and send it to the desk.

The PRESIDING OFFICER. The Senator is correct. The amendment is so modified.

Mr. ADAMS. I ask that the clerk read the language so that the Senator from Alabama may hear it.

The PRESIDING OFFICER. The clerk will report.

Mr. LOTT. Mr. President, I move to reconsider.

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

The PRESIDING OFFICER. The clerk will read the amendment.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. WALLOP. Mr. President, parliamentary inquiry.

Is not the motion of the Senator from Mississippi in order prior to the reporting of the amendment?

Mr. ADAMS. Mr. President, if I may respond to the Senator, the amendment of the Senator—

The PRESIDING OFFICER. Will the Senator from Washington yield for a moment. The clerk will read the amendment.

Mr. WALLOP. Mr. President, parliamentary inquiry.

The Senator from Mississippi moved to reconsider the previous vote which would take precedence over reading the amendment that follows.

Mr. ADAMS. If the Senator will yield, the vote on the committee amendment was announced to have passed without objection.

Mr. WALLOP. Fair enough. I understand that and that was the vote which we were moving to reconsider.

Mr. ADAMS. The other one had already been ruled upon by the Chair and the Senator's amendment had been reconsidered and that motion had been tabled. So his amendment is in place.

The PRESIDING OFFICER. The Chair wants the Senator from Wyoming to know those motions were heard by the Chair.

Mr. LOTT. I thank the Chair.

The PRESIDING OFFICER. Is there is no objection, the clerk will read the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS] proposes an amendment numbered 2797, as modified.

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

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

The amendment is as follows:

Strike all after the first word and insert.

——. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special or primary election to be held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This Initiative Measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§1118. Murder in the District of Columbia

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defend-

ant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

Mr. ADAMS. Mr. President, for the benefit of Members, I now wish to engage in a colloquy with the Senator from Alabama. After that, we are hopeful that we can put this amendment to a vote, and that it will be a voice vote. As I say, I recognize the rights of all Members, but I am trying to indicate what the managers are attempting to do. We would ask for a voice vote on that. Then the Senator from Missouri has an amendment which we have accepted which could go by voice vote. Then we are prepared to accept that the bill be voted by voice vote.

I recognize the rights of all Members to call for it, but that is the proposed course of action that the managers hope to follow, and we have cleared as best we can with all of the Members who have been involved.

Now I would yield the floor to the Senator from Alabama or I will stay on the floor to engage in a colloquy, whichever he prefers.

Mr. SHELBY. I appreciate the Senator from Washington yielding, Mr. President.

Mr. President, it is my intention, after consultation with the Senator from Washington and also the Senator from Missouri, the floor managers of this bill, that the technical amendment, the amendment that the Senator from Washington has offered to the Shelby amendment, would be calling for a referendum within the District of Columbia on the Shelby-proposed death penalty bill within 90 days—

Mr. ADAMS. That is correct.

Mr. SHELBY. Of the enactment. And further that the two managers on behalf of the Senate when they—if we were to adopt this, which we believe we will, as part of this bill—that when they go to conference they will do everything they can to keep this in the bill since we are going to let the people of the District of Columbia have a referendum on this bill. We are not going to at this time impose it on them. Is that your understanding?

Mr. ADAMS. That is correct. That is my understanding of this matter.

Mr. SHELBY. Is that the further understanding, if I could get the attention of the Senator from Missouri, the other manager of the bill? Is that his understanding of what he, too, would do on behalf of the Senate?

Mr. BOND. Mr. President, one point of clarification that I will request. The referendum is to be on a death penalty for the District of Columbia. As I understand it, it was not to include federalizing the jurisdiction of the death penalty in the District of Columbia. Is that assumption correct?

Mr. SHELBY. We have not discussed that. My bill would federalize it. It would let the people of the District of Columbia vote on it.

Mr. BOND. Mr. President, if I might suggest, there has been a referendum or an initiative, in the District of Columbia—

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Chamber.

Mr. BYRD. We cannot hear what the Senator is saying.

Mr. BOND. Mr. President, it was my understanding that there has been a proposal for a death penalty in the District of Columbia which had come from the council. My personal concern with the Shelby amendment was that it would establish Federal jurisdiction over the death penalty and change the jurisdiction significantly in the District of Columbia courts, the Federal courts for the District of Columbia.

The purpose, as I understood it, of the effort by the Senator from Alabama was to achieve, either through his bill initially, the death penalty, or to provide for a vote by the residents of the Districts of Columbia on a death penalty measure, which would not necessarily be a Federal crime. My real concern, I say to my friend from Alabama, is that we not overburden the U.S. district courts, allowing the criminal court system in the District of Columbia to administer such penalties as might be adopted by the voters in the District of Columbia.

Mr. ADAMS. Is that the understanding of the Senator from Alabama, that we are committed to uphold his proposal and his amendment but that the jurisdiction could be either in the superior court or the Federal district court?

Mr. SHELBY. That is right. We will do that.

Mr. ADAMS. That is our understanding.

Does that satisfy the Senator, that it would be in either court?

Mr. BOND. Yes. I have no problem. I wanted to clarify that we were not committing to necessarily retain Federal jurisdiction for the death penalty in conference.

With that caveat, I will support the amendment. I will support the position taken by the Senator from Alabama. I believe this is an appropriate resolution. I commend the chairman of the subcommittee and the Senator from Alabama for having worked out a very good compromise to the situation.

Mr. SHELBY. If the Senator from Missouri would yield, that would be my understanding from the colloquy we have been through.

Mr. ADAMS. That is my understanding. We are prepared to vote, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. LEVIN. Mr. President, just two quick points. One is that the vote in the Senate on the second-degree amendment here, and on the Shelby amendment, in effect was 50–45. That was the vote on tabling the second-degree amendment. It was a very close vote in the Senate, and I am sure the record will speak for itself about just how close the Senate was divided on that issue.

I happen to prefer the Adams substitute to the Shelby amendment as being the lesser of two evils, but we are still forcing on the District of Columbia a referendum. This is still a violation, I believe, of their basic home rule approach, which is that they decide when they will vote on ordinances, rather than the Congress of the United States forcing them to vote on an ordinance. I consider this still to be inconsistent with home rule.

On the other hand, it is preferable to the larger violation of home rule, which would be involved in adopting the underlying Shelby amendment, because then we would be adopting the substance of the capital punishment ordinance in and of itself for the District.

So for that reason, I think the Adams second-degree amendment, as modified, is preferable to the underlying amendment.

I have no objection.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the Adams amendment, No. 2797, as modified.

The amendment (No. 2797), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I urge adoption of my amendment, as amended.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the Shelby amendment, No. 2795, as amended.

The amendment (No. 2795), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2800

(Purpose: To provide a mechanism for the Congressional Budget Office and the Office of Management and Budget to determine the expenditure of appropriated funds for different income categories)

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of the Senator from Colorado [Mr. BROWN] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. BROWN, proposes an amendment numbered 2800.

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

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

The amendment is as follows:

On page 37, after line 25, insert the following new section:

SEC. . (a) In the case of any applicant for assistance provided with funds appropriated under this Act, the applicant shall include the information described in section 6109 of the Internal Revenue Code of 1986.

(b) Any agency processing any application described in subsection (a) shall submit the information provided by the applicant (including the dollar value of the United States Government assistance to the applicant) to the Internal Revenue Service.

(c) On a written request from the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, the Secretary of the Treasury shall furnish each such Office with—

(1) the dollar value of the United States Government assistance to the applicant; and

(2) any return or return information specified in the request, except any return or return information that can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

Mr. BOND. Mr. President, very briefly, this is an amendment that the Senator from Colorado suggested to implement the provisions of the 1993 budget resolution, which would allow the Director of OMB and the Director of the Congressional Budget Office to obtain information for applicants for assistance, provided with funds appropriated under the act.

In effect, this would provide information on the dollar value of the assistance to the applicant, and the information generically about the people who receive assistance.

This has been thoroughly discussed and debated in the budget considerations, and I believe it is not a controversial amendment. I do not believe there is any objection on this side.

Mr. ADAMS. Mr. President, I understand this amendment would make it possible for the Congressional Budget Office to get certain budget information that would be added to the other appropriations bills.

On that basis, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD. Mr. President, if the Chair will withhold, 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. ADAMS. 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 ask that the amendment just previously submitted be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment (No. 2800) was withdrawn.

Mr. ADAMS. I have no further debate on this bill.

Mr. BOND. Mr. President, I say this is an effort to gain statistical information. Obviously, we need to discuss this further and rework it, and we will not offer that amendment on this measure. I think there has been the possibility of broad bipartisan consensus that we need this statistical information, but we will review the phrasing of and implementation of the budget resolution. I think that this is something that we can do at a later time. I will not pursue it at this time.

Mr. ADAMS. I thank the Senator.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. ADAMS. I yield.

Mr. BYRD. This may be a perfectly good amendment, but I cannot tell from the reading of it in the little time that we have here just what it does.

I only wanted to be sure that I understood what the amendment does before we proceed with it. As I say, it may be a perfectly good amendment, but I think under the circumstances, unless we understand exactly what it does, I would not want to go forward.

The Senator has withdrawn it. I thank him.

Mr. BOND. Mr. President, I look forward to working with our distinguished chairman as we explore how a similar amendment might work in the future.

Mr. DASCHLE. Mr. President, since coming to Congress, I have joined with the majority of my colleagues to support funding for the District of Columbia through the annual appropriations process. Since serving in Congress, I have never taken the time of either the House or the Senate to speak on these appropriations bills.

However, I intend to change that today. There is one issue facing all residents of the District of Columbia for which I feel compelled to discuss. That issue is the serious crime problem facing both residents and visitors in the Nation's Capital.

Mr. President, I speak to this issue not only because I live in the District, as do over 20 members of my staff, but also because I am concerned with the safety of the hundreds of South Dakotans who annually visit the Nation's Capital.

When my constituents contact my office for information on Washington, they question their safety. Regrettably, these questions are the norm rather than the exception. South Dakotans watch the crime reports from the Nation's Capital. They know about the fatalities. They know about the drug problems. They ask if it is safe to walk the streets of their Capital City. They ask for my guidance whether they can be safe seeking lodging in Washington or if they need to stay in the surrounding suburbs to be safe from crime.

This cannot continue, Mr. President. A visit to Washington should focus on questions of sightseeing, not safety. South Dakotans and all Americans should be planning their tours around the many benefits this city has to offer, not basing them on how they can most confidently assure their families' safety.

It is these concerns that brings me to the Senate floor. We have before us H.R. 5517, the fiscal year 1993 appropriations bill for the District of Columbia. Subcommittee Chairman BROCK ADAMS has done a commendable job of fashioning an appropriations bill which allocates scarce Federal dollars for the city in the most efficient and prudent manner possible.

Senator ADAMS' subcommittee has made it abundantly clear the crime issue must be brought under control and progress must be demonstrated. The committee's report references the results of a recent ward six survey by saying, "The picture that emerges from a survey of ward residents about crime in the city and the police response to it is one of fear and frustra-

tion. There is no higher priority for city officials than public safety and health." I rise to echo these comments.

A serious problem lies ahead in the capability of the District's Metropolitan Police Department to respond to this crisis. The legislation before us today addresses these needs by emphasing the importance the Senate attaches to a number of the programs already begun by Mayor Kelly and the department.

Continuing and strengthening the Community Empowerment Policing Program [CEP] is crucial. It should be obvious that the closer police officers get to the neighborhood residents they serve, the more effective and efficient this partnership can be in fighting crime. City residents and visitors need to be reassured CEP goes beyond responding to the political crisis of the moment by serving as an effective and ongoing partnership between the police and the people they serve.

Two problems facing the department may make it difficult to implement effective crime fighting programs. The first is referred to in the committee's report—the deficiency in the department's force strength. The second is the denial of adequate pay to police officers.

The leadership of this city must come to grips with the serious expected problem of police officer retirements. In part, because of recruiting, training, and morale problems, as noted by the subcommittee, the city's police department will face a tremendous crisis of available officers. Over 1,000 police officers are eligible to retire because they have reached more than 20 years of service.

Perhaps more crucial in explaining this problem is the serious pay deficiency received by these officers. An October 8, 1989, 3 percent increase was the last raise received by officers of the Metropolitan Police Department. Of the nine major jurisdictions surrounding the Washington area, the Washington Metropolitan Police Department starting pay scale is the lowest.

I have participated in meetings where Mayor Kelly described the serious financial problems facing the city's leaders. It is a problem of unquestionable magnitude. With this financial crisis in mind, the committee report references the difficulty of singling out any one group of employees for a raise.

While some may argue that those who wear bullet-proof vests as their uniform of necessity should be considered as a higher priority when it comes to the allocation of scarce resources, the difficulty of finding the necessary funds to address this problem is real.

However, one could have more confidence in the argument made by city leaders about the difficulty in choosing between city employees for raises if the Washington Post was no longer able to editorialize on waste in city programs, such as the District's public housing system. A recent editorial revealed this city has 888 employees in the public housing program. This is twice as many employees as the 477 employees the U.S. Department of Housing and Urban Development indicates a city of Washington's size should have. Incredibly, the Post editorial reported the District's housing program employs the equivalent of one supervisor for each employee.

Despite this bloated staffing arrangement, public housing program officials found it necessary to hire outside private contractors to undertake rehabilitation work in public housing and hired other outside consultants to monitor the contracts and their progress.

Mr. President, I understand that the savings from an efficiently operated public housing program would not necessarily translate to the war against crime. It is, however, a matter of priorities.

Officers charged with the responsibility of protecting the residents and visitors of this city should not be without emergency radios. However, they frequently find themselves in that position.

Officers charged with protecting the residents and visitors of this city should not be without computers in their automobiles. However, unlike other departments of comparable size, District police officers do not have these crime-fighting tools.

Officers charged with protecting the residents and visitors of this city should not be without adequate and safe police cruisers. However, they frequently find themselves in that position. Mr. Larry Brown, advisory neighborhood commissioner for ward 6A recently wrote in his constituent newsletter, "For over a year, half the police cars that patrol our area have been broken, leaving us in an extremely dangerous position." I have been advised no police cruisers were purchased last year, leaving many current vehicles with over 100,000 miles.

Officers charged with protecting the residents and visitors of this city should not be without adequate training. Because of misplaced priorities, they frequently find themselves in that position because the department's training budget for some 4,500 officers is a mere $49,000.

Mayor Kelly inherited a serious financial problem when she became the Mayor of this city. There is no mistaking that fact. She has taken some positive steps to correct these deficiencies for which I applaud her. For example, she has set in motion a management audit study of the Metropolitan Police Department. I will be surprised if the findings of this study do not reflect the problems I have identified.

This Senate must work to make certain the full available resources of the Federal Government are available to this city in order to take back the streets for the visitors and residents of Washington.

Senator ADAMS and ranking member BOND have taken a positive step by bringing this appropriation bill to the Senate floor. I commend them for their efforts. I intend to support this legislation because we must see progress in this battle. The streets must be safe for all of those who live in and visit Washington. I intend to continue to be involved in future appropriations bills to make certain the battle against crime is fought and progress is made to make the streets safe for all.

The PRESIDING OFFICER. Are there further amendments to the bill?

If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5517), as amended, was passed.

Mr. BOND. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. GORTON, and Mr. HATFIELD conferees on the part of the Senate.

Mr. ADAMS. Mr. President, I thank all those who have participated.

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. BYRD. 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. BYRD. Mr. President, I want to pay a special thanks to the distinguished Senator from Washington, Mr. ADAMS, the chairman of the District of Columbia Subcommittee on Appropriations for his excellent work in shepherding the D.C. appropriations bill through the Senate in his usual, careful, and thorough manner.

I also want to thank the distinguished Senator from Missouri, Senator BOND, for his very able assistance and for his splendid cooperation and for

the time that he has given to this difficult bill. And it is a difficult bill. Somebody has to do it. I know, I was chairman of the Appropriations Subcommittee for the District of Columbia for 7 years, and it is a tough task. But somebody has to shoulder the responsibility and these two Senators have done that.

As we all know, the senior Senator from Washington has announced he will retire at the end of this session. Senator ADAMS has had a long and distinguished career as a Member of the House of Representatives, where he served as chairman of the Budget Committee, and as Secretary of Transportation. We all know that he served during the Carter administration.

This will be the last time Senator ADAMS will manage the District of Columbia appropriations bill, a bill which he has ably overseen since he assumed the chairmanship of that subcommittee in 1989.

The Senator from Washington has always accepted his responsibilities willingly and graciously. He has been a hardworking, dedicated, loyal member of the Appropriations Committee during his career in the Senate. He has always been most helpful and most cooperative with me in matters that affected his committee and he has always been very supportive of me on that committee.

So, Mr. President, I am going to miss BROCK ADAMS in his handling of this legislation and, after this year, I am going to miss him on the committee, and I regret that.

Senator ADAMS and Senator BOND, the ranking member, both deserve credit for producing a bill that balances its concerns of this Federal City—there is only one, the Federal City—as well as the responsibilities of the Congress of the United States.

I yield the floor.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business and that Senators be permitted to speak therein.

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

TRIBUTE TO REV. WILLIAM J. BYRON

Mr. LEAHY. Mr. President, after 10 years of service to the Catholic University of America as president, the Reverend William J. Byron has decided to move on. His departure ends an era for the university. Father Byron has brought much to the community both on and off his campus and will be greatly missed.

Father Byron grew up in Philadelphia and joined the Jesuit order in 1950 after service in the Army's 508th Parachute Infantry and attending St. Joseph's College. He holds degrees in philosophy, economics, and theology. Rev. Father Byron was the president of the University of Scranton and a dean at Loyola University of New Orleans.

Father Byron was inaugurated president of Catholic University in November 1982 and immediately set about making his mark. He initiated plans to renovate facilities, increased student aid, and enhanced teaching and research. He brought in new scholarship money, built new housing, and renovated Brookland Gymnasium which today houses design studios, galleries, and an auditorium. Today, a new law school building is in the works.

Father Byron has worked hard for the students of Catholic University. Most importantly, he has given them a vision. He gave them the freedom to explore, but reminded them that there were proper codes of behavior. Father Byron has increased diversity on the campus. He has found time to author three books.

Father Byron has been honored on nearly every level the world over. In 1986, he was selected as one of the "most effective" U.S. college presidents. He was received by Pope John Paul II in a private audience in October 1987. He has been named Washingtonian of the Year by Washingtonian magazine. Then, in 1989, Pope John Paul chose Father Byron as one of 17 U.S. delegates to consult with the Vatican on higher education. He has been received by King Juan Carlos of Spain in Madrid. The Washington Post recently ran a story on him and his work at Catholic University.

Catholic University is saying good bye to a wonderful man and one we can all admire. He has been a good friend and I have enjoyed my own association with him. We often joked that our Irish ancestry gave us both a facial resemblance and a resemblance in our hairline, but I think that his exemplary accomplishments makes him truly a unique person.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar 729, Philip Brunelle, to be a member of the National Council on the Arts. I further ask unanimous consent that the Senate proceed to the immediate consideration of the nomination; that the nominee be confirmed; that any statement appear in the RECORD as if read; that the motion to reconsider be laid upon the table; and that the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Philip Brunelle, of Minnesota, to be a member of the National Council on the Arts for the remainder of the term expiring September 3, 1994, vice Phyllis Curtin, resigned.

STATEMENT ON THE NOMINATION OF PHILIP BRUNELLE

Mr. DURENBERGER. Mr. President, it is with great pleasure that I take the floor to speak enthusiastically for the President's outstanding nomination of Philip Brunelle to the National Council on the Arts. In so doing, the President recognizes a lifetime of achievement in music and adds a strong voice to the cause of national support for the arts.

I want to express my gratitude to Senator KENNEDY and my other colleagues on the Labor and Human Resources Committee for bringing this nomination to the floor expeditiously.

Mr. President, Minnesota ranks 21st in population among the States, but we are proud to be 3d in the Nation behind only California and New York in investment in the arts. We have proudly contributed a number of our citizens to the national effort to encourage all our citizens to do the same. Martin Friedman, former director of the Walker Art Center, was one such figure, whose commitment to the arts is matched by his ability to bring together the resources necessary to make them flourish. Ken Dayton also served on the NEA board from 1970 to 1976, as did Sandra Hale in 1980.

Philip Brunelle is affectionately known as "Minnesota's Mr. Music." He is a native of Austin, MN. His talent as a performer, composer, arranger, conductor, artistic director, and producer have earned him acclaim throughout Minnesota, the Midwest, America, and the world.

The span of his accomplishments—from his Plymouth Music Series, to the Minnesota Opera, to his 1989 Ovation Award for Best Opera Recording, to over 100 appearances on Garrison Keillor's original "Prairie Home Companion"—is remarkable. But perhaps his greatest lasting contribution will be the work he does encouraging young artists and getting their works performed for the first time.

He is a person of unusual talent, which is magnified by a global vision for the importance of the arts to the welfare of humankind. I am pleased his name is now before the Senate, and that soon his energy will be behind the Federal effort for the arts.

I thank the leadership for bringing this matter up without delay and urge all of my colleagues to support this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

REMOVAL OF INJUNCTION OF SECRECY

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following two treaties transmitted to the Senate today by the President of the United States:

Protocol to the Treaty of Friendship, Commerce, and Consular Rights with the Republic of Finland (Treaty Document No. 102-34); and

Protocol to the Treaty of Friendship, Commerce and Navigation with Ireland (Treaty Document No. 102-35).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Treaty of Friendship, Commerce, and Consular Rights Between the United States of America and the Republic of Finland of February 13, 1934, as modified by the Protocol of December 4, 1952, signed at Washington on July 1, 1991. I transmit also, for the information of the Senate, the report of the Department of State with respect to this protocol.

This protocol will establish the legal basis by which the United States may issue investor (E-2) visas to qualified nationals of Finland. The protocol modifies the U.S.-Finland friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors. This is a benefit provided in the large majority of U.S. FCN treaties. It is also a benefit already accorded to U.S. investors in Finland who are eligible for visas that offer comparable benefits to those that would be accorded nationals of Finland under E-2 visa status.

As I reaffirmed in my December 1991 policy statement, the United States has long championed the benefits of an open investment climate, both at home and abroad. U.S. policy is to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. Finland also provides an open investment climate. Visas for investors facilitate investment activity and thus directly support our mutual policy objectives of an open investment climate.

I recommend that the Senate consider this protocol as soon as possible and give its advice and consent to ratification of the protocol at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *July 30, 1992.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol to the Treaty of Friendship, Commerce, and Navigation between the United States of America and Ireland of January 21, 1950, signed at Washington on June 24, 1992. I transmit also, for the information of the Senate, the report of the Department of State with respect to this protocol.

This protocol will establish the legal basis by which the United States may issue investor (E-2) visas to qualified nationals of Ireland. The protocol modifies the U.S.-Ireland friendship, commerce, and navigation (FCN) treaty to allow for entry and sojourn of investors. This is a benefit provided in the large majority of U.S. FCN treaties. It is also a benefit already accorded to U.S. investors in Ireland who are eligible for visas that offer comparable benefits to those that would be accorded nationals of Ireland under E-2 visa status.

As I reaffirmed in my December 1991 policy statement, the United States has long championed the benefits of an open investment climate, both at home and abroad. U.S. policy is to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. Ireland also provides an open investment climate. Visas for investors facilitate investment activity and thus directly support our mutual policy objectives of an open investment climate.

I recommend that the Senate consider this protocol as soon as possible and give its advice and consent to ratification of the protocol at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *July 30, 1992.*

AUTHORIZING EXTENSION OF TIME LIMITATIONS FOR A FERC-ISSUED LICENSE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 533, S. 2725, a bill to authorize extension of time limitation for a FERC-issued license.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2725) to authorize extension of time limitations for a FERC-issued license, which had been reported from the Committee on Energy and Natural Resources with an amendment.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill to be inserted are shown in italic.)

S. 2725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered **[4652]** *4656* (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4652. The authorization for issuing extensions under this Act shall terminate on March 26, 1999.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there is no objection, the committee amendment is agreed to.

AMENDMENT NO. 2801

(Purpose: To make a technical correction.)

Mr. BOND. Mr. President, I send a technical amendment on behalf of Senator CRAIG 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 Missouri [Mr. BOND], for Mr. CRAIG, proposes an amendment numbered 2801.

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

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

The amendment is as follows:

On page 2, line 6 strike "4652" and insert in lieu thereof "4656".

Mr. CRAIG. Mr. President, this amendment would correct a drafting error in S. 2725 as reported by the Committee on Energy and Natural Resources.

At the committee business meeting, a technical change was made to S. 2725. However, that change was not made in both places in the bill as intended. Instead the change was made in only one place in the bill.

This amendment, that is purely technical in nature, would correct this problem.

The PRESIDING OFFICER. Without objection, the floor amendment is withdrawn.

The amendment (No. 2801) was withdrawn.

Later, the following occurred:

VITIATION OF EARLIER ACTION ON AMENDMENT NO. 2801

The PRESIDING OFFICER. If the Senator will suspend for a moment, if

there is no objection, the action on amendment No. 2801 is vitiated; and the amendment will be considered agreed to prior to the passage of S. 2725.

The Chair hears no objection. The withdrawal is indeed vitiated.

The amendment (No. 2801) was agreed to.

The PRESIDING OFFICER. If there is no objection, the bill is deemed read a third time and passed.

The bill (S. 2725), as amended, was deemed read the third time and passed, as follows:

S. 2725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered 4656 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4656. The authorization for issuing extensions under this Act shall terminate on March 26, 1999.

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

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

The motion to lay on the table was agreed to.

ADDITIONAL TIME TO NEGOTIATE SETTLEMENT OF LAND DISPUTE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5566, a bill to provide additional time to negotiate settlement of a land dispute in South Carolina, 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 a statement by Senator INOUYE and a colloquy between Senators HOLLINGS and THURMOND appear in the RECORD at the appropriate place.

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

So the bill (H.R. 5566) was deemed read three times and passed.

Mr. INOUYE. Mr. President, I rise today in support of H.R. 5566, a bill to provide additional time to negotiate settlement of a land dispute in South Carolina. The dispute in question involves an action entitled "*Catawba Indian Tribe of South Carolina* v. *State of South Carolina, et al.,*" Civil Action No. 80-2050 (D.S.C.). It was originally filed as a defendant class action, naming 76 defendants as representatives of a defendant class then estimated to number 27,500.

Among other reasons, the need for this legislation is necessitated by the slow movement of this lawsuit through the judicial system. The action was originally filed in 1980 and has barely progressed beyond the procedural stages—questions of standing to sue; questions of what law applies. The case has now been in litigation for 12 years. Even as we act, other procedural issues remain to be resolved, in particular a pending appeal on the question of certification of a defendant class. As a result of this slow movement in the courts, and the determination by the Supreme Court with respect to the application of the State statute of limitations, the Catawba Tribe fears that its right to bring actions against individual landowners within the claim area will expire on October 19, 1992, and intends to begin filing such claims in the immediate future.

There have been ongoing negotiations with the State of South Carolina to resolve this claim since at least 1975. Substantial progress has been made in these negotiations, but significant issues remain to be resolved. Because this claim is founded on Federal Indian law, and because the Constitution vests plenary authority over Indian affairs in the Congress of the United States, this claim cannot be resolved without an act of Congress. Even if the parties were to reach full agreement in the immediate future, there would not be sufficient time to enact ratifying or confirming legislation and thus avoid the filing of claims against as many as 35,000 to 40,000 individual defendants.

I have read with care the floor statement of Representative JOHN SPRATT who represents this district and is the principal sponsor of this legislation in the House. It is a detailed statement that describes the background of this case and reviews the judicial history of this claim. I believe it is a very fair statement and accurately reflects this situation. I would particularly commend Representative SPRATT for his candor in pointing out the fact that as a landowner in the claim area, he himself is a defendant in this case.

Mr. President, as JOHN SPRATT emphasized, nothing in this bill is intended to affect in any way the substantive claims or defenses any of the litigants may assert should the Catawba's land claim be litigated. Its only effect is to extend the time for the filing of claims against individual defendants from October 19, 1992, to October 1, 1993.

I have only one concern with the statement of Representative SPRATT. He stated that this bill—

* * * does not state or imply whether the claimants, the Catawba Indian Tribe of South Carolina, are an Indian tribe today or were a tribe of South Carolina, are an Indian tribe today or were a tribe at any time relevant to their claim. Nor does the bill state whether any trust relationship even existed between the Catawbas and the federal government.

While I concur generally with Mr. SPRATT'S characterization of the measure, it does appear that at least one major contention relating to these issues has been resolved. That is the interpretation to be given to the 1959 Catawba Division of Assets Act (Public Law 87-322; 25 U.S.C. 931 et seq.). Initially the defendants in this case argued that the Division of Assets Act extinguished the existence of the Catawba Tribe and any claim it had prior to the enactment of the act.

In addressing this argument, the Supreme Court in *South Carolina* v. *Catawba Indian Tribe,* 476 U.S. 498 (1986), stated:

We do not accept petitioners' argument that the Catawba Act immediately extinguished any claim that the Tribe had before the statute bacame effective. Rather, we assume that the status of the claim remained exactly the same immediately before and immediately after the effective date of the Act, but that the Tribe there-after had an obligation to proceed to assert its claim in a timely manner as would any other person or citizen within the State's jurisdiction. 476 U.S. at 510.

I do not know what issues remain to be litigated on the question of the tribe's existence or its trust relationship with the United States. But it is clear, and I fully agree with the sponsors of this legislation, that nothing in this bill is intended to affect in any way the substantive claims or defenses that may be asserted by any party.

I believe it is particularly important to note that in its letter of June 24, 1992, to Senator THURMOND, Senator HOLLINGS, and Representative SPRATT, the Department of Justice informed the Congress of its opinion that this legislation is fully within the constitutional authority of the Congress to enact. The Native American Rights Fund, which represents the Catawbas in this litigation, concurs in this result. Based on this analysis and these conclusions, the Honorable Gilbert Blue, Chief of the Catawba Indian Tribe, in a letter to me dated July 22, 1992, has expressed the tribe's support for this legislation. I ask unanimous consent that this letter be printed in the RECORD immediately following the conculusion of my remarks.

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

(See exhibit 1.)

Mr. INOUYE. Mr. President, the Select Committee on Indian Affairs has developed settlement legislation for many tribes. I refer particularly to settlement of the claims of the Passamaquoddy and Penobscot Tribes in Maine, the Narragansett Tribe in Rhode Island, the Mashantucket Pequot Tribe in Connecticut, the Gay Head Wampanoag Tribe in Massachusetts, the Seminole Tribe in Florida, and the Puyallup Tribe in Washington. I look forward to working with the South Carolina delegation, the Catawbas and the State of South Carolina in resolving this claim. The whole purpose of this bill is to allow adequate time for this to occur.

Mr. President, I urge my colleagues to give their favorable consideration to this measure.

EXHIBIT 1

CATAWBA NATION,
Rock Hill, SC, July 22, 1992.

Re: S. 2989.

Hon. DANIEL K. INOUYE,
Chairman, Senate Select Committee on Indian Affairs, Washington, DC.

DEAR SENATOR INOUYE: On June 3, 1992, the Executive Committee of the Catawba Indian Tribe of South Carolina met and voted unanimously to support legislation that would suspend the running of limitations periods applicable to the Tribe's land claim. The Catawba Tribe has, since it first undertook to resolve this claim in 1977, sought to avoid disruptive litigation in favor of a consensual settlement. Our attorneys have reviewed S. 2989 and are satisfied that it is drafted in such a way as to provide as much protection to our claim as can be provided. Our support for S. 2989 is based on our understanding that Congress does have the authority to enact such legislation.

I will be happy to provide further information or comment if you desire. Thank you for your consideration.

Sincerely,

GILBERT BLUE,
Chief, Catawba Indian Tribe.

Mr. HOLLINGS. Mr. President, I would like to take a moment to express the intent of Congress regarding passage of H.R. 5566. This bill is not in any way meant to affect the substantive claims or defenses of either the Catawbas or the landowners should the legal proceedings in the Catawba's land claim continue. During the drafting of this legislation, it was specifically agreed by both sides that this bill would not touch the substantive merits of their claims.

This legislation merely suspends any period or statute of limitations until October 1, 1993, thus allowing additional time for negotiations to proceed. No other meaning should be drawn from this legislation by any party or court. Particularly, H.R. 5566 does not state or imply whether the Catawbas are now or were an Indian tribe at any time relevant to their claim. In addition, the bill makes no comment on whether any trust relationship ever existed between the Catawbas and the Federal Government. Congress believes that such issues are for the courts to resolve and does not speak to these or any other such issues in this legislation.

I invite my friend and colleague from South Carolina to comment on the accuracy of these statements.

Mr. THURMOND. Mr. President, I am in accord with the comments made by my colleague, Senator HOLLINGS, concerning H.R. 5566.

Along with Senator HOLLINGS, I introduced an identical bill, S. 2989, which would give the parties involved additional time to continue their negotiations.

Additionally, I ask unanimous consent that a letter which I received from the Department of Justice on this matter, stating that our legislation does not violate the principles of State sovereignty, separation of powers, or any other applicable constitutional principles, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 24, 1992.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: This is in response to your request for the views of the Department of Justice on the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. The draft bill would have the effect of tolling the statute of limitations applicable to the Tribe's claims if the statute has not already run. We have briefly analyzed the draft bill in light of pertinent legal and constitutional issues. In our view, the legislation is constitutional.

The purpose of the proposed legislation is to preserve, for a brief period, the current legal status of the Tribe's claims under the applicable statute of limitations so that the parties have time to complete settlement discussions, and thereby avoid massive and burdensome litigation of the claims. The bill would provide that if the applicable statute of limitations has run by the date of its enactment, then all claims subject to it, filed or unfiled, will remain barred. However, if the applicable statute of limitations has not run by the date of enactment, then "any action by a plaintiff shall be treated as commenced on the date of the enactment of this Act if such action is commenced on or before April 15, 1993[,] and any amendment to an existing claim, if otherwise permissible, shall be treated as if commenced on April 15, 1993."

The fundamental issue is whether Congress has the power to alter the statute of limitations applicable in this case. We conclude that Congress has that power. First, the cause of action in the Catawba case is one "arising under" federal law for purposes of 28 U.S.C. 1331. The Fourth Circuit explicitly so held in *Catawba Indian Tribe v. South Carolina*, 865 F.2d 1444 (4th Cir. 1989) (en banc), and the Supreme Court so stated in *South Carolina v. Catawba Indian Tribe*, 476 U.S. 498, 507 (1985), although the issue was not squarely before the Supreme Court.

The Supreme Court first squarely recognized the federal character of such Tribal land claims in *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661 (1974), and generally stated that the rules for decision of such claims were federal in character. *Id.* at 674. In a subsequent decision in that same case, the Court specifically ruled that state statutes of limitation do "not apply of their own force to Indian land title claims." *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240 n.13 (1985). Instead, such statutes are "borrowed and applied to the federal claim * * *" if the application of the state statute is not inconsistent with federal law. *Id.* at 240.[1]

This conclusion would appear to resolve two potential constitutional issues. First, it makes clear that the draft bill would effect no violation of the Tenth Amendment or other principles of state sovereignty. Congress clearly has the power under the Commerce Clause of Article I to regulate in this area. Tolling the statute of limitations applicable in this case would be merely an exercise of that power. It would do nothing more than alter a "borrowed" statute of limitations that, absent congressional action, has served as the applicable bar. The bill thus neither commandeers state legislative processes nor contains a direct mandate to states. *Compare New York* v *United States*, Slip Op. at 28-29 (Supreme Court, June 19, 1992) (invalidating federal statutory provision requiring states that do not provide for disposal of low-level radioactive waste generated in state to take title to and assume liability for that waste). *Cf, Hodel* v. *Virginia Surface Mining and Reclamation Association*, 452 U.S. 264 (1980) (exercise of federal powers that preempt state law does not impermissibly intrude on state sovereignty).

Second, the bill does not appear to create separation of powers problems by interfering with the judicial function. By changing the applicable statute of limitations, Congress in the draft bill is compelling a change in the law, rather than a particular result or finding under old law. The Supreme Court has upheld this type of congressional action where it has been challenged as improperly affecting pending litigation. *See Robertson v. Seattle Audubon Society*, 112 S.Ct. 1407 (1992). In *Robertson*, the Court upheld a federal statute that altered the legal standard required under certain environmental statutes with respect to certain timber sales in the Pacific Northwest. The Court rejected the plaintiffs' claim that the provision at issue was an impermissible "statutory directive," holding that "[a] statutory directive binds *both* the executive officials who administer the statute *and* the judges who apply it in particular cases * * *. Here, our conclusion [is] that what Congress directed—to agencies and courts alike—was a change in the law, not specific results under old law." *Id.* at 1414 (emphasis in original).

Because it is within Congress's plenary power to alter a federal statute of limitations, we do not believe that accomplishing that end through a "deeming" provision such as proposed section 2(b) would interfere with judicial powers in violation of Article III of the Constitution. Since Congress could state that "any statute of limitations that has not expired on the date of enactment of this bill is extended to April 15, 1993," it would not be problematic for Congress to provide that any claims subject to such an unexpired statute of limitations on the date of enactment of the bill shall be treated *as if* filed before the date of enactment.

In conclusion, in our view the draft bill would not violate any applicable constitutional principles. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

W. LEE REWLS,
Assistant Attorney General.

[1] The Supreme Court in a variety of contexts has held that state statutes of limitations are "borrowed" in cases where gaps are left in federal law. These borrowed statutes of limitations thus apply as a matter of federal law, rather than of their own force and effect. The Supreme Court has applied this general "state borrowing" doctrine in countless cases, including the *Catawba* case. 476 U.S. at 507 & n. 18 (citing cases). *See also Lampf, Pleva, Lipkind, Prupis & Petgrow* v. *Gilbertson*, 111 S. Ct 2773, 2778-82 (1991) (recognizing borrowing rule but holding that state statute of limitations does not apply where Congress intended federal bar to apply); *Del Costello* v. *International Brotherhood of Teamsters*, 462 U.S. 151, 158-63 1983) (same).

CHILD NUTRITION IMPROVEMENT ACT OF 1992

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2759.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2759) entitled "An Act to amend the National School Lunch Act to improve the nutritional well-being of children under the age of 6 living in homeless shelters, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Nutrition Amendments of 1992".

TITLE I—NUTRITION IMPROVEMENT FOR HOMELESS CHILDREN

SEC. 101. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) IN GENERAL.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public entities, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994,"; and

(4) by adding at the end the following new paragraph:

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public entities, and shall advise each State of the procedures for applying to participate in the project.".

(b) OTHER MEANS.—(1) The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters.

(2) None of the funds provided under section 18(c)(5)(A) of the National School Lunch Act may be used by the Secretary of Agriculture to conduct a demonstration project under paragraph (1) of this subsection.

TITLE II—BREASTFEEDING PROMOTION AND IMPROVEMENT OF OTHER CHILD NUTRITION PROGRAMS

SEC. 201. BREASTFEEDING PROMOTION PROGRAM.

The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by adding at the end the following new section:

"SEC. 21. BREASTFEEDING PROMOTION PROGRAM.

"(a) IN GENERAL.—The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

"(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

"(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breastfeeding;

"(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

"(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

"(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

"(d) GIFTS, BEQUESTS, AND DEVISES.—

"(1) IN GENERAL.—The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

"(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devices under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

"(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

"(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.".

SEC. 202. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking "of the children" and all that follows through "services" and inserting the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less".

SEC. 203. EXTENSION OF DEMONSTRATION PROJECTS.

Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1994, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.".

SEC. 204. INCLUSION OF HOMELESSNESS AND MIGRANCY AS NUTRITIONAL RISK CONDITIONS

Section 17(b)(8)(D) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)(D)) is amended by inserting before the period the following: ", homelessness, and migrancy".

TITLE III—REAUTHORIZATION OF PILOT PROGRAM

SEC. 301. REAUTHORIZATION OF PILOT PROGRAM.

Paragraph (1) of section 18(b) of the National School Lunch Act (42 U.S.C. 1769(b)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

TITLE IV—REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES

SEC. 401. REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES.

Section 3(a)(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking "1992" and inserting "1996".

Amend the title so as to read: "An Act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.".

Mr. FORD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER (Mr. BRYAN). The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, the Child Nutrition Amendments of 1992 S. 2759, are targeted on homeless children under age 6 living in emergency shelters. These are the innocent victims of the recession, of high unemployment rates, of parental neglect or parental drug abuse, of ill-fated programs, or just plain bad luck.

These children will never have a fair chance if Americans turn their backs on them. While other children play and learn, these children go hungry.

Making matters worse, the demand for emergency food assistance keeps growing. In New York City alone the number of emergency food providers—soup kitchens, food pantries, and the like—increased from 30 in 1981 to more than 700. This is an astonishing increase.

The spectacle of homeless American children standing in long lines at soup kitchens is shameful.

At the same time, this Nation is spending billions to pay off banks that guaranteed prewar loans to Saddam Hussein and to pay the debts of failed savings and loan institutions.

I am pleased that the Congress, with full bipartisan support, is requiring that a modest amount of the funds provided under the School Lunch Act be targeted to aid homeless children under age 6. While older brothers and sisters are fed wholesome meals in school—the younger children, too young to go to school, all too often must wait for scraps of food brought home from school.

The current pilot programs—which feed those younger children—work.

The USDA-issued report on the pilots, "Study of the Child Nutrition Homeless Demonstration," shows how

well this program has worked. The report notes:

The shelters were unanimous in reporting that the preschool children living in the shelters were now receiving meals that were more balanced, more nutritious, and more frequently included fresh fruit, milk, vegetables and full-strength juices. * * * Furthermore, [certain] children under age 6 * * * now received a warm and nutritious lunch whereas prior to the demonstration they did not receive any meal at all.

It was also reported that "mothers were very grateful, and were especially pleased that their children now got the milk they needed."

This bill helps. But it does not go far enough.

The GAO reports that a total of 68,000 children are homeless, living in homeless shelters, abandoned buildings, churches, or living on the streets. In addition, 186,000 children live in shared housing.

Equally distressing are the numbers of children under age 6 that are homeless. CBO estimates that close to 25,000 children under age 6 live in emergency shelters—this leaves out the thousands more living in abandoned buildings or in alleys. According to CBO, it would cost $20 million per year to fully fund this program for all those 25,000 children. The annual cost is low, per child.

Thus, while this act does not go far enough it is an important first step. It will help local governments and cities provide food assistance to these homeless children. For example, New York City has an immediate need for this assistance for its city administered facilities sheltering young children.

I need to raise one technical matter. The law as amended by this act provides that no organization can operate more than five sites. While it is clear from the text of the law, I want to emphasize that the reference to "Each such organization" in section 18(c)(2)(B) only refers to "private nonprofit organizations" and does not refer to the "State, city, local, or county governments, or other public entities" which are newly permitted to participate under this act.

That five-site limit imposed on organizations is relevant only to private nonprofit organizations and not to governments or other public entities. Imposing that limit on counties or cities is unnecessary and counterproductive in terms of the intent of this legislation.

For example, it would make no sense to encourage homeless families to crowd into just 5 of New York's 11 or so shelters so that their youngest children could obtain nutritious meals.

Note that many other cities—Los Angeles, CA; Flint, MI; Detroit, MI; New Orleans, LA—have also expressed an interest in this program. It is critical that the Secretary provide each State with the procedures for applying to participate in the program as required in section 18(c)(7).

As I mentioned, this act expands a current program, pilot tested in Philadelphia and some other locations, so that additional homeless children can be provided nutritious meals.

I want to again express my appreciation to the U.S. Catholic Conference, and to the Archdiocese of Philadelphia and its Nutritional Development Services, for all they have done regarding the pilot projects that tested this program. Certainly the Department would be expected to continue to support existing programs in Philadelphia and at the other locations operated by nonprofit private sponsors.

Several of the ideas contained in this act were taken from the experiences in Philadelphia, the USDA report on the pilot project, and from important concerns raised by New York City.

I need to make one additional point. Several million dollars of unused State administrative expense [SAE] funds are available under current law. These funds could be used to provide assistance to additional shelters. As of today I am not aware that the administration has used any of those funds for additional expansion.

I am working with the Department to develop legislative language to make that unused money available for fiscal year 1993. I certainly hope that the Senate can pass such legislation without objection to spend these already appropriated funds to address the needs of these homeless children.

I want to thank Congressmen FORD, KILDEE, and GOODLING and the other members of the House Education and Labor Committee. The chairmen, and ranking minority member, of the full committee and the subcommittee, and their staffs, have diligently worked on this effort. With a couple of exceptions noted in this statement, I agree with the points raised in their report, report 102-645. I intend to engage in a colloquy with the distinguished ranking minority member of the committee, Senator LUGAR, on these additional points.

Mr. President, I would like to address two aspects of that House report with Senator LUGAR and get his views on these matters. I have concerns with the extension of the commodity letter of credit [CLOC] program as discussed by the House report. The report notes that the CLOC Program should be thoroughly reviewed before reauthorization of the school lunch program. The program has already been very thoroughly studied and lengthy reports have been issued.

Second, there might be a conflict between the law, as amended by this act, and the report. The report directs the Secretary to increase the number of school districts receiving commodity letters of credit by five school districts. However, the law only permits participation by school districts that had participated on January 1, 1987.

While I have the highest respect for the views of the members of the Education and Labor Committee, I want to note that I join with the American School Food Service Association, and USDA, in not supporting expansion of the CLOC projects. Indeed, administrative cost savings and other school lunch benefits could be achieved by eliminating these projects. Both USDA and a SFSA support terminating these projects.

I am concerned that attempting to resolve this matter now would jeopardize passage of this bill this session. Thus, that issue is preserved in this act and will be addressed in the 1994 reauthorization of the school lunch program.

I would like to ask Senator LUGAR if he agrees with my concerns regarding the extension of the CLOC program and regarding the need to further study the CLOC program.

Mr. LUGAR. Yes, I agree with the views you have expressed.

Mr. LEAHY. I thank the Senator. On nutrition issues the Agriculture Committee has carried out, once again, its bipartisan tradition. I want to thank the ranking minority member Senator LUGAR for his assistance on these issues and again commend him for the nutrition award he received from the Food Research and Action Center for his outstanding efforts.

Senator DOLE continues to be a leader regarding protecting the nutritional well-being of America's children. Also, Senator MCCONNELL has been instrumental in continuing, in this act, a demonstration project in Kentucky and Iowa that assists child care centers. I am very supportive of that project and would hope to expand it nationwide if budgetary considerations permit.

As always, Senator HARKIN, as the chairman of the Nutrition Subcommittee, has been a tireless fighter and advocate for hunger programs. He is a tremendous asset to the committee.

THOMAS JEFFERSON COMMEMORATION ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 959.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 959) entitled "An Act to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed

an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected 3d President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson extended beyond the realm of politics and government to the adaptation of classic architecture, as exemplified by his home at Monticello and the grounds of the University of Virginia, which set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Thomas Jefferson Commemoration Commission (in this Act referred to as the "Commission").

SEC. 4. DUTIES.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government that harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the several States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(5) encourage civic, patriotic, and historical organizations, and State and local governments, to organize and participate in anniversary activities commemorating the birth of Thomas Jefferson; and

(6) develop and coordinate any other activities relating to the anniversary of the birth of Thomas Jefferson as may be appropriate.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 21 members, including—

(A) the Chief Justice of the United States or such individual's delegate;

(B) the Librarian of Congress or such individual's delegate;

(C) the Archivist of the United States or such individual's delegate;

(D) the President pro tempore of the Senate or such individual's delegate;

(E) the Speaker of the House of Representatives or such individual's delegate;

(F) the Secretary of the Interior or such individual's delegate;

(G) the Secretary of the Smithsonian Institution or such individual's delegate;

(H) the Secretary of Education or such individual's delegate;

(I) the Chairman of the National Endowment for the Humanities or such individual's delegate;

(J) the Executive Director of the Thomas Jefferson Memorial Foundation or such individual's delegate; and

(K) 11 citizens of the United States who are not officers or employees of any government, except to the extent they are considered such officers or employees by virtue of their membership on the Commission.

(2) APPOINTMENTS BY PRESIDENT.—

(A) IN GENERAL.—The individuals referred to in paragraph (1)(K) shall be appointed by the President. The individuals shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(B) POLITICAL AFFILIATION.—Not more than 6 of the individuals appointed under subparagraph (A) may be affiliated with the same political party.

(C) RECOMMENDATIONS.—Of the individuals appointed under subparagraph (A)—

(i) 3 shall be appointed from among individuals who are recommended by the majority leader of the Senate in consultation with the minority leader of the Senate; and

(ii) 3 shall be appointed from among individuals who are recommended by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(b) TERMS.—Each member of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act for the life of the Commission.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) CHAIRPERSON.—The President shall designate the chairperson of the Commission from among the individuals appointed under subsection (a)(2).

(e) COMPENSATION.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) MEETINGS.—The Commission shall meet at the call of the chairperson or a majority of its members.

(g) APPROVAL OF ACTIONS.—All official actions of the Commission under this Act shall be approved by the affirmative vote of not less than a majority of the members.

SEC. 6. POWERS.

(a) ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as it determines to be necessary to carry out this Act.

(b) DELEGATION OF AUTHORITY.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this Act.

(c) CONTRACT AUTHORITY.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, in order to carry out this Act.

(2) RESTRICTION.—The contracts, leases, or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission.

(3) TERMINATION.—All supplies and property acquired by the Commission under this Act that remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of the termination.

(d) INFORMATION.—

(1) IN GENERAL.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the chairperson of the Commission, the head of the Federal agency shall furnish the information to the Commission.

(2) EXCEPTION.—Paragraph (1) shall not apply to any information that the Commission is prohibited to secure or request by another law.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 7. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR.—The Commission shall have an executive director appointed by the chairperson of the Commission with the advice of the Commission. The executive director may be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(b) STAFF.—The Commission may appoint and fix the pay of additional personnel as it considers appropriate, except that an individual so appointed may not receive pay in excess of the maximum rate of basic pay payable for GS–13 of the General Schedule.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except as provided in subsections (a) and (b).

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any Federal agency may detail, on a nonreimbursable basis, any of the personnel of the agency to the Commission to assist it in carrying out its duties under this Act.

(e) EXPERTS AND CONSULTANTS.—The chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at a rate which does not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 8. CONTRIBUTIONS.

(a) DONATIONS.—The Commission may accept donations of money, personal services, and property, both real and personal, including books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Any funds donated to the Commission may be used by the Commission to carry out this Act. The source and amount of such funds shall be listed in the interim and final reports required under section 9.

(2) PROCUREMENT REQUIREMENTS.—In addition to any procurement requirement otherwise applicable to the Commission, the Commission shall conduct procurements of property or services involving donated funds pursuant to the small purchase procedures required by section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)). Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall not apply to such procurements.

(3) DEFINITION.—For purposes of paragraph (2), the term "donated funds" means any funds of which 50 percent or more derive from funds donated to the Commission.

(c) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the final report required by section 9.

SEC. 9. REPORTS.

(a) INTERIM REPORT.—Not later than December 31, 1992, the Commission shall prepare and submit to the President and the Congress a report detailing the activities of the Commission, including an accounting of funds received and expended by the Commission, during the period beginning on the date of the enactment of this Act and ending not earlier than 30 days prior to the submission of the interim report.

(b) FINAL REPORT.—Not later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) the findings, conclusions, and recommendations of the Commission;

(4) specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8(a); and

(5) any additional views of any member of the Commission concerning the Commission's recommendations that such member requests to be included in the final report.

SEC. 10. AUDIT OF FINANCIAL TRANSACTIONS.

(a) IN GENERAL.—The Inspector General of the General Services Administration shall audit financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards. In conducting an audit pursuant to this section, the Inspector General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) REPORTS.—Not later than December 31, 1992, the Inspector General of the General Services Administration shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted before such date. Not later than March 4, 1994, such Inspector General shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted during the period beginning on December 31, 1992, and ending on December 31, 1993.

SEC. 11. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the final report required by section 9.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $250,000 for fiscal year 1993 and $62,500 for fiscal year 1994.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

MAKING CERTAIN TECHNICAL CORRECTIONS TO THE PUBLIC HEALTH SERVICE ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3112, a bill to amend the Public Health Service Act to make certain technical corrections, and for other purposes, introduced earlier today by Senators KENNEDY and HATCH; that a statement by Senator KENNEDY be printed in the RECORD; that the bill be considered read three times, passed and the motion to reconsider be laid upon the table.

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

So the bill (S. 3112) was deemed read three times and passed, as follows:

S. 3112

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 "Public Health Service Act Technical Amendments Act".

SEC. 2. TECHNICAL AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 464H(a), by striking out "Institute of Alcohol" and inserting in lieu thereof "Institute on Alcohol";

(2) in section 464J(b), by striking out "702(2)" and inserting in lieu thereof "701(1)";

(3) in section 464L(d)(1), by inserting "other than section 464P," after "this subpart,";

(4) in section 464N(b), by striking out "701(2)" and inserting in lieu thereof "701(1);;'

(5) in section 464R(f)(1), by striking out "other than section 464P";

(6) in section 502(b)(3)(B), by striking out "and management" and inserting in lieu thereof "or management";

(7) in section 504(a), by striking out "by regulation";

(8) in section 1918(a)(5)(A)(iii) by striking out "25" and inserting in lieu thereof "45";

(9) in section 1918(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

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

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

"(C) with respect to fiscal years 1993 and 1994, an amendment equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(10) in section 1927(b)(2)(B), by striking out "available" the first time such terms occurs;

(11) in section 1933(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

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

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

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(12) in section 1943(a)(3), by striking out "515" and inserting in lieu thereof "505"; and

(13) in section 1971(g), by inserting "substance abuse" before "treatment services".

(b) OTHER TECHNICALS.—

(1) CONDUCT OF CERTAIN RESEARCH PROJECTS.—Section 149 of the ADAMHA Reorganization Act is amended by striking out 464I, 464O, or 464T" and inserting in lieu thereof "464H, 464L, and 464R".

(2) PATH PROGRAM.—Section 163(a) of the ADAMHA Reorganization Act is amended by striking out paragraphs (1) and (3), and redesignating paragraph (2) as paragraph (1).

(c) REFERENCES.—Section 205 of the ADAMHA Reorganization Act is amended—

(1) in subsection (a)(2)(A)—

(A) by striking out "1916(c)(6)(A)" in the matter preceding clause (i) and inserting in lieu thereof "1916(c)(6)";

(B) by striking out "under clause (i) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (i) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517"; and

(C) by striking out "under clause (ii) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (ii) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517"; and (2) in subsection (b)(3)—

(A) by striking out "in compliance with clause (i) of former section 1916(c)(6)(A)" in subparagraph (E) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517";

(B) by striking out "in compliance with clause (ii) of former section 1916(c)(6)(A)" in subparagraph (F) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517";

(C) by redesignating subparagraph (F) as subparagraph (G); and

(D) by inserting after subparagraph (E), the following new subparagraph:

"(F) The term 'State' includes the territories of the United States.".

SEC. 3. EFFECTIVE DATE.

The amendments made by—

(1) subsection (a) of section 2, shall take effect immediately upon the effectuation of the amendments made by titles I and II of the ADAMHA Reorganization Act; and

(2) subsections (b) and (c) of section 2, shall take effect on the date of enactment of this Act. Passed the Senate July 30 (legislative day, July 23), 1992.

Mr. KENNEDY. Mr. President, I wish to offer a brief explanation of the Public Health Service Act Technical Amendments Act, a bill that Senator HATCH and I introduced today and that

the Senate has passed by unanimous consent.

On July 10, President Bush signed into law S. 1306, the ADAMHA Reorganization Act, Public Law 102–321. This bipartisan, omnibus legislation contains many provisions designed to improve the Federal effort against mental illness and substance abuse. In my view, it is one of the most important public health bills we will enact this year.

One of the improvements brought about by the ADAMHA bill is the bifurcation of the current Alcohol, Drug Abuse and Mental Health Services block grant into separate substance abuse and mental health block grants. Both of these block grants will be distributed to the States according to new formulas.

The current bill makes a number of minor technical and clarifying changes to Public Law 102–321 with respect to the revised block grant program, and corrects several other technical errors in the bill as well. I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF THE PUBLIC HEALTH SERVICE ACT TECHNICAL AMENDMENTS ACT

Subsection 2(a)(1) corrects an incorrect reference to the National Institute on Alcohol Abuse and Alcoholism.

Subsections 2(a) (2) and (4) correct incorrect references to NIH construction authority.

Subsections 2(a) (3) and (5) moves an incorrectly placed reference to NIDA's medications development program from section 464R(f)(1) to 464L(d)(1).

Subsection 2(a)(6) clarifies that the members of SAMHSA Advisory Councils are not required to be leaders in all of the five fields enumerated in statute.

Subsection 2(a)(7) eliminates the necessity of promulgating regulations with regard to the peer review process. The new ADAMHA bill requires appropriate peer review for grant programs, but HHS officials have expressed concern that such regulations might not be promulgated in time to determine what form of peer review, if any, would be appropriate for the FY93 block grant applications. This determination must still be made, but it is unnecessary in this context to utilize the more formal regulation process to reach that decision.

Subsection 2(a)(8) corrects a typographical error in the mental health block grant formula.

Subsections 2(a) (9) and (11) provide that the territories are to receive the same "hold harmless" in fiscal years 1993 and 1994 that the states receive.

Subsection 2(a)(10) clarifies an ambiguity created by awkward grammar in section 1927(b)(2)(B) of the newly revised Public Health Service Act.

Subsection 2(a)(12) corrects an incorrect reference to SAMHSA's data collection authority.

Subsection 2(a)(13) clarifies that the maintenance of effort requirement in the new Capacity Expansion Grant Program applies specifically to substance abuse treatment activities in the state.

Subsection 2(b)(1) corrects incorrect statutory references.

Subsection 2(b)(2) eliminates unnecessary and misleading conforming references from Public Law 102–321.

Subsection 2(c)(1) clarifies Congress' intent regarding the intrastate allotment of FY 92 funds. Prior to the enactment of Public Law 102–321, the interaction of title XIX of the Public Health Service Act and the fiscal year 1991 Labor-HHS Appropriations bill mandated a specific "split" between substance abuse and mental health in each state. In passing the ADAMHA Reorganization Act, the Congress intended to mandate the same statutory split in FY92 as was mandated in FY91. The bill passed by the Senate today will ensure that result.

Subsection 2(c)(2) similarly clarifies Congress' intent regarding the intrastate allotment of FY93 and FY94 funds. Under section 205(b) of Public Law 102–321, states have the right to shift funds from mental health to substance abuse and from substance abuse to mental health in those two fiscal years, but Congress intended to permit a state to shift funds no further than its FY91 split. Subsection 2(c)(2) of the Technical Amendments bill makes clear that in exercising their authority under section 205, the states are to be constrained by their FY91 intrastate split. This section also makes clear that the authority provided by section 205(b) of the ADAMHA bill applies to territories as well as states.

Mr. GRAHAM. Mr. President, the bill before the Senate would make technical corrections to legislation recently passed by Congress and enacted into law, the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act.

I opposed this legislation when it came before the Senate because of provisions changing the allocation of funds for substance abuse and mental health services among States. I argued that the immediate effective date of the formula change would cause immediate and devastating cuts in programs that were making a real impact in preventing substance abuse and providing much-needed mental health services. The cost of this bill to the State of Florida was $16.5 million in lost treatment and prevention funds.

I fear, Mr. President, that my prediction has already been realized. I ask unanimous consent to print in the RECORD at the end of my statement an article from the July 19, 1992, Miami Herald "Cuts force 6 drug treatment centers to close."

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, the Herald reports that funding for drug treatment in the Dade County area will drop by $2.5 million, denying help to 3,000 individuals, as a result of cuts in Federal and State funds.

During Senate debate on this issue, I also argued that the formula was based on factors which were not true measures of the need for these services in a particular geographic location. Measures currently being used include factors such as outdated estimates of rental costs for office space and wages for manufacturing jobs.

The new law includes a provision I supported which requires the Department of Health and Human Services [HHS] to contract with the National Academy of Sciences [NAS] to conduct a review of the appropriateness of these factors and to make recommendations as to how better we can measure need for substance abuse and mental health services.

It is my understanding that, although HHS has not entered into a formal agreement for this study with NAS, the Department intends to do so in the very near future.

Mr. President, I have received an assurance as to HHS' intentions in the form of a letter from the Acting Director of the Alcohol, Drug Abuse and Mental Health Administration, Dr. Elaine Johnson. I ask unanimous consent that it be printed in the RECORD.

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

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION,
Rockville, MD, July 29, 1992.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: My staff have informed me of your interest in the study and report required by section 707 of P.L. 102–321, the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1992.

The provision requires the Secretary of Health and Human Services to request the National Academy of Sciences (NAS) to enter into a contract to conduct a study of the formulas used for the distribution of the Mental Health and the Substance Abuse Block Grants authorized under section 1911 and 1921 of the Public Health Service Act. The study is to 1) assess the degree to which the formulas allocate funds according to the respective needs of the States; 2) review the relevant epidemiological research regarding the incidence of substance abuse and mental illness among various age groups and geographic areas; 3) the identification of factors not included in the formula that are reliable predictors of the incidence of substance abuse and mental illness; 4) an assessment of the validity and relevance of factors currently included in the formula, such as age, urban population and cost; and 5) any other information that would contribute to a thorough assessment of the appropriateness of the current formulas.

ADAMHA is committed to fulfilling its obligations with respect to the study. If there are any delays caused by either ADAMHA or NAS, we will inform Ann Hardison of your staff. If you have any questions, please call Joseph Faha, Director of Legislation, on (301) 443–4640.

Thank you for your interest in this organization and its programs.

Sincerely yours,

ELAINE M. JOHNSON, Ph.D.,
Acting Administrator.

Mr. GRAHAM. Mr. President, I am also pleased that the distinguished chairman of the Senate Committee on Labor and Human Resources, Senator KENNEDY, has written a letter assuring me that the committee will take a serious look at the NAS study soon after

its receipt and take appropriate action on their recommendations. I ask unanimous consent that Senator KENNEDY's letter to me be printed in the RECORD. With these assurances, Mr. President, I am prepared to consent to passage of this technical corrections package.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, July 29, 1992.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR BOB: During the recent Senate consideration of the ADAMHA Reorganization Act (S. 1306), there was considerable discussion about the new formula that will determine how the federal mental health and substance abuse block grants are apportioned among the states.

I remain confident that the formula set forth in the legislation is the best means of allotting funds based on the current available information. As you know, however, section 707 of the Act mandates that an independent study of this issue be submitted to Congress within six month of the date of enactment. This section was inserted in the bill, at your request, to ensure that the formula we have put in law is appropriate, and to determine if the formula can be improved in any fashion.

I can assure you that this study will receive serious and timely review by the Labor Committee. If a hearing to examine the results of the study seems warranted, we will convene such a hearing. We share the goal of ensuring that federal substance abuse and mental health resources are apportioned among the states in the most equitable manner possible.

Sincerely,

EDWARD M. KENNEDY.

[From the Miami Herald, July 19, 1992]

EXHIBIT 1

CUTS FORCE SIX DRUG TREATMENT CENTERS TO CLOSE

(By Dexter Filkins)

Pedro Romero checked into a county drug treatment center just in time.

Had he waited a few more weeks, Romero likely would have been shut out of a program that is shrinking because of budget cuts.

"If I were on a waiting list, I'd be dead," said Romero, who checked into the Bay House Residential Treatment Center eight weeks ago.

Metro-Dade has slashed its drug treatment budget, forcing the closing of six centers and denying help to as many as 3,000 people a year.

County manager Joaquin Aviño announced last week that funding for drug treatment would drop by $2.5 million. He said the money came from the federal and state governments, and the county wasn't obliged to fill the gap.

"That is not our responsibility," Aviño said.

The cut represents about 17 percent of the county's budget for drug treatment, which provides help to thousands of addicted adults, teens and jail inmates.

The human cost promises to be staggering, health officials say. About 3,000 fewer people will receive treatment. The county will no longer be able to accept addicts who walk in off the street.

Drug counselor say some—but not all—of the addicts can be absorbed by state-operated treatment centers.

"It's very sad," said Edris Jackson, a supervisor at the North Dade Regional Treatment Center in Miami. "People are really going to feel this."

The center where Jackson works closed for good Friday. It used to provide counseling and treatment to hundreds of people in the Wynwood section of Miami. Most of them were poor and couldn't afford private counseling.

"It's gloomy here," said Angel Muñiz, director of the county's drug treatment programs.

The county will shut down five other centers, most of them within walking distance for their clients. Three of them are residential centers, places where the most severe addicts come to live. Woods House in Northeast Miami, and Merrimac House and a short-term treatment center in Northwest Dade.

Together they comprise about a third of the beds allotted by the county for drug treatment outside of jails. Last year, the three centers helped about 400 people, said Dade budget analyst Bill Brown.

Also on the list for closing are two more clinics, like Jackson's, that treat addicts on an outpatient basis—one in South Dade and another in North Dade. Those out-patient centers provide treatment for about 2,500 people, Brown said.

The clinics stopped accepting patients last month.

The cuts are not final. Metro commissioners could alter Aviño's recommendation when they approve the county's budget in September. But that would require restarting programs that are now shutting down.

The cuts upset some law-enforcement officials.

"I think drug treatment is one of the most effective weapons we have," State Attorney Janet Reno said. "Every time we cut it, we end up with more people in jail."

Even before the cuts, the county's drug treatment centers were operating at maximum capacity. The waiting list now is several weeks and more than 200 people long, said Dr. Carolina Montoya, the assistant director of the county's office of rehabilitative services.

Romero, the recovering drug addict, said he fears for his friends on the street who may not be as lucky as he was.

"This has given me an opportunity to get a life, because I didn't have a life," Romero said. "I still have a lot to offer."

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 498, House Concurrent Resolution 192, a concurrent resolution establishing a joint committee on the organization of Congress.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 192) to establish a Joint Committee on the Organization of Congress.

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 2802

(Purpose: To propose a substitute)

Mr. FORD. Mr. President, on behalf of Senator BOREN, I send a substitute 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 Kentucky [Mr. FORD], for Mr. BOREN, proposes an amendment numbered 2802.

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

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

The amendment is as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—There is established an ad hoc Joint Committee on the Organization of the Congress (referred to as the "Committee") to be composed of—

(1) 12 members of the Senate—

(A) 6 to be appointed by the Majority Leader; and

(B) 6 to be appointed by the Minority Leader; and

(2) 12 members of the House of Representatives—

(A) 6 to be appointed by the Speaker; and

(B) 6 to be appointed by the Minority Leader.

(b) EX OFFICIO MEMBERS.—The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives shall be ex officio members of the Committee, to serve as voting members of the Committee. Ex officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee.

(c) ORGANIZATION OF COMMITTEE.—(1) A chairman from each House shall be designated from among the members of the Committee by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(2) A vice chairman from each House shall be designated from among the members of the Committee by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(3) The Committee may establish subcommittees comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House.

(4)(A) No recommendation shall be made by the Committee except upon a majority vote of the members representing each House, respectively.

(B) Notwithstanding subparagraph (A), any recommendation with respect to the rules and procedures of one House which only affects matters related solely to that House may only be made and voted on by the members of the committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the committee. Once such recommendation is adopted, the full committee may vote to make an interim or final report containing any such recommendation.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The Committee shall—

(1) make a full and complete study of the organization and operation of the Congress of the United States; and

(2) recommend improvements in such organization and operation with a view toward

strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with and oversight of other branches of the United States Government, and improving the orderly consideration of legislation.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, and the structure of, and the relationships between, the various standing, special, and select committees of the Congress;

(2) the relationship between the two Houses of Congress;

(3) the relationship between the Congress and the executive branch of the Government;

(4) the resources and working tools available to the legislative branch as compared to those available to the executive branch; and

(5) the responsibilities of the leadership, their ability to fulfill those responsibilities, and how that relates to the ability of the Senate and the House of Representatives to perform their legislative functions.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The Committee, or any duly authorized subcommittee thereof, may—

(1) sit and act at such places and times as the Committee, or any duly authorized subcommittee thereof, determines are appropriate during the sessions, recesses, and adjourned periods of Congress; and

(2) require the attendance of witnesses and the production of books, papers, and documents, administer oaths, take testimony, and procure printing and binding.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—(1) The Committee may appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable, but shall utilize existing staff to the extent possible.

(2) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Office of Technology Assessment, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(3) The members and staff of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Committee, other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session.

(c) WITNESSES.—Witnesses requested to appear before the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in traveling to and from the places at which they are to appear.

(d) EXPENSES.—

(1) SENATE.—(A) The Senate members of the Committee shall submit a budget of expenses allocable to the Senate to the Committee on Rules and Administration of the Senate. The Committee may expend for expenses allocable to the Senate not to exceed $250,000 from the Contingent Fund of the Senate subject to approval by the Committee on Rules and Administration until a Committee funding resolution is approved by the Senate or, if no funding resolution is approved, until March 1, 1993.

(B) The expenses of the Committee allocable to the Senate shall be paid from the contingent fund of the Senate, upon vouchers signed by the Senate chairman.

(2) HOUSE OF REPRESENTATIVES.—Notwithstanding any law, rule, or other authority, there shall be paid from the contingent fund of the House of Representatives such sums as may be necessary for one-half of the expenses of the committee, with not more than $250,000 to be paid with respect to the second session of the One Hundred Second Congress. Such payments shall be made on vouchers signed by the House of Representatives cochairman of the committee and approved by the Committee on House Administration of the House of Representatives. Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration of the House of Representatives.

SEC. 4. COMMITTEE REPORT.

(a) REPORT.—The Committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than December 31, 1993.

(b) RECESS OR ADJOURNMENT.—If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(c) REFERRAL.—All reports and findings of the Committee shall, when received, be referred to the appropriate committees of the Senate and the appropriate committees of the House of Representatives.

SEC. 5. CONDUCT OF COMMITTEE BUSINESS.

The Committee shall not conduct any business prior to November 15, 1992.

Mr. BOREN. Mr. President, today the Senate has helped open what will hopefully be a new and dynamic chapter in the history of Congress. With the passage of Senate Concurrent Resolution 57, Congress will finally be able to confront the organizational problems which have reduced its effectiveness.

As an institution, Congress is in trouble. The American people have described it as wasteful, inefficient, and compromised by the way it finances its campaigns. During this year's congressional campaigns, the American people have sent an unmistakable message to Congress: If you refuse to set your house in order, we will elect those who will do it for you.

Today, the Senate has taken a critical step toward setting our House in order. Indeed, this is perhaps the most important legislative step we have taken in this Congress. I applaud my colleagues in the House for having passed this resolution last month and I hope that we can quickly resolve the minor differences in the versions acted upon in the two Houses so that the committee can begin to organize.

This resolution would be ineffective without the solid and compelling bipartisan support that has brought it to verge of passage in both Houses so quickly. I thank Majority Leader MITCHELL and Minority Leader DOLE for the personal interest they have taken in the quick passage of this resolution. John Hilley and Robert Rozen of the majority leader's staff have worked tirelessly to see this resolution become law. I am also grateful to Chairman FORD and Senator STEVENS of the Rules Committee for their quick and effective action on the resolution. Staff Director James King provided invaluable help in the Rules Committee work on the resolution. On my own staff, the efforts of John Deekan, Dan Webber, and Joe Harroz over the last 2 years have been indispensable in allowing us to reach this critical juncture.

This juncture is indeed a critical, even an historic one. The longer we delay the reform of this troubled institution, we allow it to slip deeper into bureaucratic disarray. It is not difficult to find areas in need of reform. In 1947, congressional staff numbered about 2,000 employees. That number has spiraled to 12,000 today. To justify their existence, these enormous staffs inundate their Members' agendas with legislative proposals—most of them inconsequential at best. These proposals get introduced as bills, further overloading and stalling an already sluggish system. As a result, a gridlocked Congress wastes precious time bickering over trivial legislation while important bills get lost in the shuffle.

Of the 6,973 bills introduced in the last Congress, only 3 percent were enacted—and those bills are longer and more encumbered with minutia than ever. The average bill is five times longer than it was in 1970 and many bills attempt to micromanage every area of government.

The committee system has also grown out of control. This unwieldy bureaucracy, with its fragmented and overlapping jurisdictions, makes the timely and effective consideration of bills next to impossible. In 1947, there were 38 House and Senate committees with parallel jurisdictions. Today there are almost 300 committees and subcommittees—and House and Senate committees rarely have coinciding jurisdictions for efficient handling of legislation. In 1947, there were almost no Senate subcommittees. Today there are 91 and the average Senator is a member of 12 full committees or subcommittees, spreading his or her time and attention too thin.

Procedural maneuvering further reduces the efficiency of Congress. A recent study showed that a full 25 percent of the Senate's legislative time—equal to 43 full legislative days—is consumed by quorum calls and other delaying tactics.

Senators are able to offer amendments to a pending bill whether it has anything to do with the bill or not. For example, an abortion amendment might be offered during consideration of an agriculture bill or a gun control measure might be dropped into a foreign operations bill. Diversionary tactics such as these slow the legislative to a crawl.

Furthermore, Congress has no guidelines to arrange priorities. It is pos-

sible to debate the same issue over and over again in the same Congress while crucial legislation such as budget bills are typically shunted to the end of a session. The budget process itself has become so arcane and complex that not even those who helped write the rules for it agree about what they mean.

Mr. President, the resolution passing the Senate today moves us significantly closer to creating the means by which we can confront and remedy the problems plaguing this institution. Of course, the resolution would not have gotten this far without the bipartisan leadership of my principal cosponsors: PETE V. DOMINICI in the Senate and LEE H. HAMILTON and WILLIS D. GRADISON in the House. I am particularly grateful to them for their earnest and tireless efforts for reform.

The resolution establishes a bipartisan committee with members drawn from both Houses which will work with a very small full-time staff with expert volunteer help under a strict time limitation to report back to the full Congress a proposal for comprehensive congressional reform. In order to avoid being politicized by the election season it will begin official business, including voting and the holding of hearings, after November 15, but I am assured by the Rules Committee staff that the language of the resolution would allow for organizing activities including the hiring of staff to commence immediately upon passage of the resolution.

When Congress does not function as it should, our democracy itself is at risk. The trust of the American people is at risk. Mr. President, by the passage of this resolution, we in Congress demonstrate our determination to live up our responsibilities as trustees of this great institution so that it can be passed on to the next generation—stronger and more able to perform its role in the democratic process.

Mr. GRAHAM. Mr. President, will the senior Senator from Oklahoma enter into a colloquy with me to answer some questions and clarify the joint committee's mandate.

Mr. BOREN. Mr. President, of course, I will be happy to answer any question the senior Senator from Florida might have.

Mr. GRAHAM. Mr. President, is it the understanding of the distinguished Senator from Oklahoma that the scope of the joint committee's study of the organization and operation of Congress is broad enough to include an analysis and recommendations with respect to the rules of the House of Representatives and of the Senate regarding requirements and procedures for closing meetings and for providing reasonable notice of the meetings?

Mr. BOREN. Mr. President, yes, that is my understanding. In crafting this resolution, we were careful to include within its scope such relevant and important matters. I share with my colleague from Florida a similar desire to serve timely notice and keep all possible meetings open to the public—in fact, as Governor of the State of Oklahoma, I signed into law sweeping sunshine laws.

Mr. GRAHAM. Mr. President, is it the understanding of the senior Senator from Oklahoma that the scope of the joint committee's mandate is broad enough to include an analysis and recommendations with respect to the rules of both Houses regarding the availability of records of any committee or subcommittee, including a conference committee, to Members and staff who are not on such committees or subcommittees, as well as to members of the general public?

Mr. BOREN. Mr. President, yes. The focus of this joint committee clearly warrants the consideration of such matters. The many meetings of so many committees, subcommittees and conference committees make attendance at more than even a small fraction of such meetings impossible. Access and a record of such meetings could be a valuable asset.

Mr. GRAHAM. Mr. President, I appreciate the opportunity to clarify the resolution's intent in this area and thank my colleague from Oklahoma for his assistance in this matter.

Mr. GRAHAM. Mr. President, the sponsors of this legislation, Senators BOREN and DOMENICI, should be commended for guiding it through the deliberative process.

One area of great concern that I want to ensure the Joint Committee on the Organization of Congress will address is openness in Congress.

Public access to congressional proceedings and records, and the assurance that Members of Congress and their staff have the requisite access necessary to perform their official responsibilities are needed steps in restoring the public's faith in Government.

Floridians have come to expect sunshine in Government. When two circuit court cases in the State held that Florida's sunshine law was inapplicable to the legislature, the voters turned to the constitution.

During the 1990 general election, Floridians approved an amendment to the State constitution which requires the rules of procedure of each house of the legislature to provide that all legislative committee and subcommittee meetings of each house and joint conference committee meetings be open and noticed.

Mr. President, you can imagine my constituents' shock and dismay when I explained to them that during conference negotiations on the surface transportation reauthorization bill which determined the redistribution of millions of gas tax dollars contributed to the Federal Government by Floridians I could not even get copies of the proposals being debated.

I was forced to use dilatory tactics prior to floor consideration of the $115 billion surface transportation bill so that I could review the conference report.

Mr. President, this is not the only time when I have not had sufficient access to the legislative process. Most recently, I was following the conference committee meeting on the dire emergency supplemental appropriations bill so that I could communicate to the conferees my support for particular provisions in the bill.

It was clear that the staff of the conferees were meeting to reconcile the differences between the House and Senate versions, but the accouncement that the members were formally meeting on the legislation came two hours before they actually met.

This time the outcome of the deliberations were positive. Next time, it may not be.

No constituent can afford that risk. Legislators must have access to the process, notice of meetings must be given in a reasonable amount of time, and materials must be openly distributed. Those that may be adversely impacted by changes made behind closed doors have limited recourse.

A careful review by the Joint Committee on the Organization of Congress of the rules and procedures of the House and Senate committees and recommendations for increased openness are steps in the right direction.

Mr. DOMENICI. Mr. President, I am pleased to join with my distinguished colleague, Senator BOREN, in supporting passage of House Concurrent Resolution 92, establishing a Joint Committee on the Organization of Congress.

This effort began in early 1991 when Senator BOREN, in the spirit of bipartisanship, asked me to join him in introducing this timely measure. The Senate version of this bill, Senate Concurrent Resolution 57, has 57 cosponsors. The House passed this resolution with 247 cosponsors, with a vote of 412 to 4.

I joined this effort enthusiastically. For me, it represents the best approach for institutional change. As important, it is an honest, straight-forward approach. In its very simplicity, it is the best vehicle I have seen for structural change. Among many reasons I cosponsored this measure, I would like to mention three of the most important:

First, it is bipartisan;

Second, its timeframe for completion of the work is reasonable; and

Third, its objective is to help make Congress more effective—to look at the way we conduct our business, for efficiency's sake, and for the sake of the public good.

The realities of any congressional reform effort have the potential of striking fear in the fearless. Regardless of individual agendas, and there are probably many, I believe the majority in both congressional bodies know the

time has come to examine ourselves. Being ever optimistic, I had great expectations that this resolution would have been passed last year so we could have been close to completing this effort by now. However, at least we can begin now, and complete the work by next December.

With the goal of making Congress more efficient and more responsive, we must address the constraints that inhibit our effectiveness. Frankly, I believe that we are sometimes consumed with form over substance, or process over content. To alleviate our frustration levels of insufficient time to do the work, let alone do it well, I hope this joint committee will examine, at a minimum, several key institutional concerns.

First, it is imperative that we try to streamline the present system of three distinct processes for authorizations, appropriations, and the budget. My personal assessment is that we should analyze the possibility of moving to a 2-year budget and appropriations process over the annual system, with the first year devoted to the establishment of the funding levels and the second year devoted to oversight and program review.

Second, we should examine the multiplicity of committee and subcommittee assignments, including their cross-jurisdictional nature. There is enormous energy and talent in Congress, but few Members have time to devote to the immediate social and economic issues facing this country. Furthermore, I would suggest that there is negligible time left after we react to the immediate crisis du jour, to formulate any long-term policy objectives in such areas as U.S. competitiveness, science and technology reform, or infrastructure development. The concerns of our cities, the needs of our American families, and the education of our children, for example, certainly deserve more than piecemeal legislation; a complementary and strategic package of reform measures would be preferable. We can meet these goals far better if we have more time to spend on the issues and in fewer committees.

I want to stress emphatically that the intent of this reform effort is to focus on a few internal structural efforts, examine them thoroughly, and provide Congress with thoughtful, practical reform recommendations.

Congress bashing is a popular occupation, and there is no denying we have probably deserved some of the criticism. At the same time, we can do something about the problems. We, in Congress, know better than any commentator the magnitude of the problems and the constraints we need to address. I have every confidence we can do so in a professional and appropriate manner.

We are capable of effecting institutional changes to help us do our work better—to make us more effective. Unless one is an academician or a political voyeur, there are few who are interested in the day-to-day management, scheduling, or complex legislative processes of the Congress. However, this effort isn't about the headline grabbing issues of parking or other reported perks. This is about institutional reform that we know is needed.

As I have stated before, many say that what is needed is guts, courage, and willpower. However, we now have a system that minimizes the opportunity to be courageous, that diminishes the opportunity to lead, and that wilts the willpower to address tough issues. This system does not let us be as efficient or as effective as we can be, or as we must be.

I am, therefore, pleased that we can agree to start moving on this important, bipartisan congressional reform effort. It's time has come; in fact, it is past due. This undertaking can help us do our job better. Let us move quickly to establish the committee and set about the work we need to accomplish.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 2802) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 192) as amended was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the concurrent resolution, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

WAIVER OF PROVISIONS OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Senate Concurrent Resolution 131 submitted earlier today by Senators MITCHELL and DOLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 131) to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The concurrent resolution (S. Con. Res. 131) is as follows:

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislation Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

Mr. FORD. I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

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

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

THE ENERGY BILL

Mr. SIMPSON. Mr. President, while we wait the results of knowledge of what tomorrow's activity may bring, let me speak for a few moments.

I want to express my strong personal admiration—I speak on the energy bill, which we passed here this afternoon—for the distinguished floor managers of this legislation. The senior Senator from Wyoming, MALCOLM WALLOP, a long-time dear friend of mine, as ranking member of the Energy Committee, and its chairman, Senator BENNETT JOHNSTON, another lovely friend, have worked tirelessly on this legislation.

This bill is a culmination of years—literally years—of hard work by all of the members of the Energy Committee and their fine staffs. I commend them all. In particular, the distinguished chairman, and our splendid senior Senator from Wyoming.

Mr. President, although no legislation is perfect, what we have before us today is, without question, an excellent bill, a consensus bill that represents the collective wisdom and views of the Congress of the United States and the administration.

Our distinguished colleagues on the Energy and Finance Committees have given us the map with which our energy policy will be charted for generations to come. I know we will get to conference, and I feel quite certain that the extraordinarily important parts, the salient features of the legislation of the House and Senate, will be borne in the final product.

This bill has been a roller coaster ride of activity, fraught with controversial germane and nongermane issues. Through it all, extremely contentious issues were dealt with openly and candidly, and above all, the extraordinary patience.

When Senators WALLOP and JOHNSTON thought the end was in sight, they were confronted then with the emotional and heated issue of the miners' health benefits.

The junior Senator from West Virginia [Mr. ROCKEFELLER] carried this issue with his usual dogged determination. Ultimately, with the leadership of the Energy and the Finance Committees, a reasonable compromise was forged that is now included in this legislation.

I commend all of those who were involved in that: Senator ROCKEFELLER, Senator WALLOP, Senator WENDELL FORD, and so many who have helped; and, of course, Senator JOHNSTON.

I would just say that I have watched and worked side by side with MALCOLM WALLOP for a span of nearly 30 years. The leadership he displayed on this bill is nothing new to me. The health benefits issue should not have been here. It threatened the progress of one of the most important pieces of legislation Congress has addressed during my career here.

Senator WALLOP tackled the issue with his typical statesmanship in order to save the underlying bill. He was able to help craft a compromise which was fair to the affected miners, and at the same time which protected the legitimate interests of the miners and coal mining companies that had "no dog in the fight."

This compromise, indeed, the success we see today in passing this first every national energy strategy, is due in large measure to the determination, compassion, leadership, and ability of my fine senior colleague, MALCOLM WALLOP.

Through MALCOLM'S leadership and the leadership of many of our fine colleagues, both in the Senate and the administration, who are able to set aside partisan politics, and we have begun to establish a true national energy policy.

So, Mr. President, I just want to say that I am very proud to serve with MALCOLM WALLOP. I came to the Wyoming Legislature in 1965. I came to know him then. And then we legislated together in later years, side by side, on many issues; not always agreeing. In fact, one of the great spirited debates of the Wyoming Legislature was the one where MALCOLM and I stood toe to toe for about 2 days.

But he has again demonstrated to me, who knows him so well—a man who knows him so well—and he has demonstrated to all that this important legislation would not have been without his perseverance and determination. He is a credit to the U.S. Senate, and a splendid representative of the great State of Wyoming.

I take note that in the Chamber tonight is Senator WALLOP's energy staff director, Rob Wallace. Rob and the rest of the Energy Committee staff did a superb job on this complicated legislation. I have known Rob all his life. He is an outstanding person, a true professional, a great asset to Senator WALLOP and the Energy Committee. His mother and I served together in the Wyoming Legislature. She and his father would be very proud of the work their son has done to bring this important bill to fruition.

I would also like to say a few words about the revenue provisions that are contained in this bill. These provisions represent the sort of bipartisan, thoughtful, productive efforts that is becoming increasingly rare in this election year.

One of the most critical provisions of the bill to the oil and gas industry was the alternate minimum tax relief. The alternate minimum tax was intended to prevent people from bucking the system during the good times. But it has proved to be a very dangerous double whammy during these most difficult times.

The relief in this bill is the single most important tax issue pertaining to our energy self-sufficiency, and once again, it was included in this bill because of the leadership of Senator WALLOP and others.

I would like at this point to commend Senator LLOYD BENTSEN of Texas for his constructive and bipartisan leadership with the Finance Committee, in its especially critical, important work with the alternate minimum tax. He has been open and responsive throughout this process, which is his wont. He has listed the concerns expressed by Senators on this side of the aisle, as well as the other, and the resulting tax package reflects that.

I trust the House and Senate conferees will take a careful look at the tax provisions of this bill, and note their importance for this Nation's energy lifeline, and rise above parochial interests or partisan politics and retain these provisions in the conference committee report.

These provisions represent a modest and effective approach to relieving some of the contorted tax burdens on our energy industry. It is not in any way a free ride, I can assure you.

Indeed, limits have been placed on the amount by which the repeal of the excess intangible drilling cost preference can reduce taxable income.

These tax provisions are measured, but will be effective, and we urge their support by the full conference committee.

Again, I thank the leadership and the fine floor managers of this critically important legislation. And it comes as a special tribute at a time when we desperately need it.

My predecessor, Cliff Hansen, spent 19 months of his life on a conference committee on energy, and I hope we never see that one again.

I thank the Chair.

Mr. SIMPSON. 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.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries, transmitting treaties.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:32 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 bills:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992; and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 7:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that it had passed the following bills:

H.R. 2694. An act to amend title 11, District of Columbia Code, to remove gender-specific references;

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 5622. An act to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anti-crime initiatives in the District of Columbia;

H.R. 5623. An act to waive the period of Congressional review for certain District of Columbia acts; and

H.R. 5677. An act making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

MEASURE REFERRED

The following bills were read the first and second times, and referred as indicated:

H.R. 2694. An act to amend title 11, District of Columbia Code, to remove gender-specific references; to the Committee on Governmental Affairs;

H.R. 5622. An act to authorize an additional Federal contribution to the District of Columbia for fiscal year 1993 for youth and anti-crime initiatives in the District of Columbia; to the Committee on Governmental Affairs; and

H.R. 5623. An act to waive the period of Congressional review for certain District of Columbia acts; to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 30, 1992, he had presented to the President of the United States the following enrolled bills:

S. 295. An act for the relief of Mary P. Carlton and Lee Alan Tan;

S. 2641. An act to partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1992; and

S. 2917. An act to amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1625. A bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes (Rept. No. 102-349).

By Mr. LAUTENBERG, from the Committee on Appropriations, with amendments:

H.R. 5518. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-351).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1578. A bill to recognize and grant a Federal charter to the Military Order of World Wars.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2087. A bill to prohibit certain use of the terms "Visiting Nurse Association", "Visiting Nurse Service", "VNA", and "VNS".

By Mr. BYRD from the Committee on Appropriations:

Special report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution, Fiscal Year, 1993" (Report No. 102-350).

EXECUTIVE REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Henry Edward Hudson, of Virginia, to be Director of the United States Marshals Service.

Timothy E. Flanigan, of Virginia, to be an Assistant Attorney General.

Stephen H. Greene, of Maryland, to be Deputy Administrator of Drug Enforcement.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

Don J. Svet, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

John S. Simmons, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years.

Timothy D. Leonard, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

Lourdes G. Baird, of California, to be United States District Judge for the Central District of California.

Irma E. Gonzalez, of California, to be United States District Judge for the Southern District of California.

Rudolphe T. Randa, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

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. LEAHY (for himself, Mr. KERRY, Mr. KERREY, Mr. KENNEDY, Mr. HATFIELD, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. DECONCINI):

S. 3098. A bill to impose a one-year moratorium on the sale, transfer or export of antipersonnel landmines abroad, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOND:

S. 3099. A bill to require the sine die adjournment of Congress by October 15 of each year; to the Committee on Governmental Affairs.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 3100. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM:

S. 3101. A bill to authorize a White House conference on juvenile justice; to the Committee on the Judiciary.

By Mr. SIMON:

S. 3102. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

By Mr. COATS:

S. 3103. A bill to suspend until January 1, 1995, the duty on exomethylene ceph v sulfoxide ester; to the Committee on Finance.

S. 3104. A bill to extend until January 1, 1995, the existing suspension of duty on (6R,7R)-7-(R)-2-Amino-2-phenylacetamido)-3-methyl-8-oxo-5-thia-1-azabicyclo(4.2.0)oct-2-ene-2-carboxylic acid disolvate; to the Committee on Finance.

S. 3105. A bill to extend until January 1, 1995, the existing suspension of duty on chemical intermediate; to the Committee on Finance.

By Mr. BINGAMAN:

S. 3106. A bill to extend the deadline for compliance with certain drinking water regulations, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3107. A bill to provide for the protection of vertebrate paleontological resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 3108. A bill to amend title 38, United States Code, with respect to housing loans for veterans; to the Committee on Veterans Affairs.

By Mr. CRANSTON (by request):

S. 3109. A bill to amend title 38, United States Code, to authorize the creation of a Persian Gulf Registry Program; to the Committee on Veterans Affairs.

By Mr. BROWN:

S. 3110. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of such Act to germicides; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN (for himself, Mr. KASTEN, Mr. BRYAN, and Mr. MACK):

S. 3111. A bill to amend the Internal Revenue Code of 1966 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing federal tax relief for employment and investment; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 3112. A bill to amend the Public Health Service Act to make certain technical corrections, and for other purposes; considered and passed.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3113. A bill to establish a Quinebaug and Shetucket Rivers Valley National Heritage Corridor; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Con. Res. 131. A concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31st; considered and agreed to.

By Mr. BOND:

S. Res. 327. A resolution to limit the number of Senate committee staff to the number employed at the beginning of the 103d Congress and to establish a procedure for the appointment of an independent commission composed of retired Federal judges to investigate allegations of ethics violations by Senators; to the Committee on Rules and Administration.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 3098. A bill to impose a 1-year moratorium on the sale, transfer or export of antipersonnel landmines abroad, and for other purposes; to the Committee on Foreign Relations.

ANTI-PERSONNEL LANDMINE MORATORIUM ACT

Mr. LEAHY. Mr. President, 6 years ago, when the Contra war was still going on in Nicaragua, I visited a

Contra camp in the Honduran jungle on a steamy hot day.

The helicopter I was in landed at the field hospital. It was a terrible place. There were tents and tin shacks and a hospital that was just a big warehouse with a dirt floor. I went through that makeshift hospital, and I met a young boy. He was probably 9 or 10 years old. He had a leg blown off. He was a good looking young man, very pleasant, hobbling around with a handmade crutch.

He was the son of a farmer, and he had stepped on a landmine walking along a path near where he lived. He had been at the camp for over 2 years. There was no other place for him to go. He had never had an artificial leg. He did not know where he could get one. He only had the handmade crutch. And in his country, with his background his future was pretty grim.

That boy did not know who had placed the landmine, which side of the war had put it there. But, really, what difference did it make? The fact was, his leg was gone and his future was blighted.

That boy was one of hundreds of thousands of people in dozens of countries, many of them children like him, who have lost a leg or an arm from a landmine. In poor Third World countries torn by civil war—like Afghanistan, Angola, Mozambique, Laos, Cambodia, El Salvador, and Nicaragua—landmines have become the weapon of choice. They are cheap; they are easy to carry, and they can make whole areas inaccessible. But they are weapons of terror, of indiscriminate terror, usually used against civilians.

In Afghanistan, an estimated 400,000 people have been maimed in the 14-year war—400,000 people. That is more than three-quarters of the population of my whole State of Vermont. And those are the lucky ones; another 200,000 have been killed by landmines.

In Cambodia, 20,000 people have lost limbs and another 60 people a month are being maimed by landmines. The overwhelming majority of them are noncombatant civilians. That is the insidious thing about landmines—they do not discriminate. They will maim or kill anyone who steps on them, civilian or combatant, but it is usually a civilian.

Let me show you what I am talking about. These pictures tell the story, of excruciating pain, of hope lost, of years of immense hardship in countries where life is a daily struggle even for those who are not crippled.

These women in Angola, and thousands of others like them, are waiting for artificial limbs. They each lost a leg from landmines. These are women who must care for children, walk miles for firewood, for food, for water. Work in fields, carry home what they produce or need, and do it with only one leg.

This boy from Mozambique, lost both his legs above the knee. His body was virtually torn in half by the explosion. He stepped on a kind of landmine that springs out of the ground and explodes at about waist level so it will do maximum damage.

This boy was not a combatant. He was not one of those who hoped to profit from war. But look at him. What future does he have?

Another victim of one of these landmines, an American, wrote about what happened to him. Let me read what he said:

> I was thrown violently through the air. When I threw my arms out in front of me, I saw in shocked amazement that my left arm was gone from above the elbow. A white splintered bone jutted out of a bloody stump of tangled and torn flesh. The flesh on my right arm had been blasted away from the elbow to the hand, and I could see both bones glistening white against bloody pulp. Grievous damage was also done to both my legs and feet.

Mr. President, the horror, the sheer horror of that statement, but hundreds of thousands of people around the world could write the same thing.

When I came back from Honduras 4 years ago, I established a new program in the Agency for International Development that has become known as the War Victims Fund. That fund provides artificial limbs and vocational training for civilian victims of war. In the past 3 years, AID has started projects in about a dozen countries, fitting thousands of landmine victims with artificial limbs and sending over American doctors and physical therapists to do training.

Two years ago, I visited one of the clinics supported by the War Victims Fund in Uganda. Before we got involved there was no sterile operating room in the entire country. We built one, and American surgeons have volunteered their time. We also provided equipment for a workshop to manufacture artifical limbs.

Another war victims program is operating now in Mozambique. There are programs in Laos, Sri Lanka, Lebanon, and other war torn countries.

In Angola, where there are 20,000 amputees, the War Victims Fund has built a hostel where amputees and their children can stay while they are being fitted for artificial limbs and given physical therapy.

These programs have helped the victims, but they have not stopped the killing and maining by landmines. Landmines are being used in increasing numbers. They remain buried and undetected for years, long after the fighting stops and the combatants leave. People are still being killed and mained in Laos and Vietnam because of mines strewn by United States forces 20 years ago. Afghanistan may never be rid of the millions of mines that litter the countryside and continue to cause untold suffering.

That is why today I am introducing legislation to impose a 1-year moratorium on the sale, transfer, or export of antipersonnel landmines by the United States.

The United States is one of some 35 countries that export landmines. However, our exports represent only an insignificant amount. In the past 10 years, the State and Defense Departments have licensed sales and exports of antipersonnel landmines valued at less than $1.9 million.

It is obvious that these sales are neither significant in terms of American jobs nor necessary for U.S. security. But they have terrible significance for the victims who are crippled for life, and for their families.

Ten years ago the United States joined 52 other countries in signing the landmine protocol, the second protocol to the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons.

The landmine protocol to the convention seeks to regulate the use of mines to minimize their indiscriminate effect on noncombatant civilians.

At the time, the United States said:

> We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.

The convention called attention to the problem of indiscriminate killing and maiming of civilians by landmines, but it so far has accomplished little else. Ten years have passed and the administration has still not submitted the convention to the Senate for ratification.

And since then, we have seen the use of landmines skyrocket and hundreds of thousands of innocent people left crippled or dead. If we are ever going to stop the use of these deadly weapons the United States must show leadership.

This legislation is a first step. It does not ban the production of antipersonnel landmines. But it cuts off the export, sale, or transfer of U.S. landmines to other countries where they are used routinely against civilians.

The legislation also calls on the President to actively seek to negotiate an international agreement, or a modification of the convention, to prohibit the sale, transfer, or export of antipersonnel landmines. Such a binding international agreement would replace the unilateral U.S. moratorium on the export of landmines.

Mr. President, with the end of the cold war, we are seeing enormously important arms control agreements. We and the Russians are cutting back thousands of nuclear warheads, and destroying hundreds of ballistic missiles. We and the nations of Europe are reducing hundreds of thousands of

troops, thousands of tanks, planes, and artillery.

Compared to those historic arms agreements, this 1-year moratorium on U.S. exports of landmines may seem small. But if it can set an example for other countries that produce and sell antipersonnel landmines, it can mean everything to the hundreds of thousands of legless and armless men, women, and children in countries too poor to care for them. With the cold war over, we can finally do something to begin to put an end to this senseless slaughter of innocent people.

Mr. President, it is my intention to offer this bill as an amendment to the Defense authorization bill, which I understand will come to the floor prior to the August recess. I hope the Senate will adopt my amendment by an overwhelming vote and send a message to the world.

Mr. President, I ask unanimous consent that the following Senators be listed as cosponsors of the bill I am introducing today. Senator BOB KERREY, Senator JOHN KERRY, Senator HATFIELD, Senator JEFFORDS, Senator KENNEDY, Senator MIKULSKI, and Senator DECONCINI.

I send to the desk the legislation I have referred to and ask that it be appropriately referred.

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

Mr. LEAHY. Mr. President, I want to mention two people who deserve special mention for their work to stop the use of landmines around the world. Jodie Williams, of Brattleboro, VT, and Robert Muller, executive director of the Vietnam Veterans of America Foundation, have started a global campaign to stop the use of landmines. They have already gained the support of half a dozen organizations around the world. I want to thank them for their support for this legislation, and for their commitment to this cause.

Mr. President, I ask unanimous consent that a letter from Robert Muller be printed in the RECORD and that an article from yesterday's New York Times about landmines in Afghanistan be printed in the RECORD.

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

VIETNAM VETERANS OF AMERICA FOUNDATION,
Washington, DC, July 29, 1992.

Senator PATRICK LEAHY,
SR 443 Russell SOB,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the Vietnam Veterans of America Foundation, I would like to congratulate you on the leadership role you have taken with your introduction of legislation to impose a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

As you graphically point out, landmines are insidious weapons that do not discriminate—they kill and maim tens of thousands of civilians around the world long after the wars in which they were sown are over. This indiscriminate effect, which can last through decades of peace, is clearly not proportionate to any military gain of the moment.

The VVAF endorses this legislation as a first step toward ending this senseless slaughter. Further, it endorses the language that would set the policy of the United States to work toward the eventual "termination of production, possession or deployment of anti-personnel landmines."

The VVAF hopes that your leadership will be further by the U.S. Senate with the passage of this legislation as an amendment to the Defense Authorization bill.

Sincerely,

ROBERT O. MULLER,
Executive Director.

[From the New York Times International, July 29, 1992]

MINES IN AFGHANISTAN MAIM MANY REFUGEES

WASHINGTON, July 28.—Afghan refugees returning home are being maimed by land mines at a rate that alarms the International Committee of the Red Cross, an official of the organization says.

"Mines are a problem all over Afghanistan," said Urs Boegli, the committee's deputy delegate general for Asia. "It's not like Cambodia, where mining was confined to border areas."

Mr. Boegli said in a telephone interview from Geneva that mineclearing is "not on any scale compared to the size of the disaster."

Since April, when Kabul fell to guerrilla armies, the frequency of mine injuries—typically amputations—has tripled, according to records kept at three Red Cross hospitals, in Kabul and in Quetta and Peshawar, Pakistan.

Mr. Boegli said the Red Cross was fitting about 300 artificial limbs a month in Kabul and Peshawar, and there is a long waiting list.

Despite education programs in refugee camps, children are often tempted to pick up certain kinds of mines, especially "butterflies," which are small and bright green. Their hands are blown off in the detonation.

Mr. LEAHY. Mr. President, we can exert moral leadership here. We can ban the export of landmines. We can do it very easily. And then we can use that moral leadership to go to other countries that produce these terrible weapons and urge them to ban them too. Ask yourself, Mr. President, when you look at these pictures—and I could bring thousands more like this onto the Senate floor—what has any country gained in security by using weapon's that would do that to a child? What has any country gained by using weapons that would do that to innocent women? What does it say about our own moral leadership if we are party to this? These are not weapons that protect a country. These are weapons that enable warring factions to use terror to gain their way.

Mr. President, can we not ask ourselves, if the goals of those who would use such weapons of terror against innocent civilians are not suspect in the first place? Because if your goals can only be reached by such indiscriminate use of terror against innocent people, Mr. President, it cries to Heaven that those goals themselves are immoral.

Mr. HATFIELD. Mr. President, a great deal of my time here in the Senate has been devoted to ridding this earth of some of the most insidious weapons known to mankind: nuclear warheads, biological weapons, and chemical weapons. I have opposed these weapons because of their destructive capability and because their use could lead to the indiscriminate harm of innocent civilians.

This new campaign to end the use of antipersonnel landmines is the next step in this effort and it pleases me greatly to join Senator LEAHY in introducing legislation to impose a 1-year moratorium on the sale or export of these weapons.

The truth about landmines is tragic: landmines continue to threaten innocent civilians in several countries around the world, most notably Cambodia, Laos, Afghanistan, and Angola. These legacies of war are resulting in hundreds of thousands of casualties long after the cease-fires are in place. A preferred tool of insurgencies, these mines are scattered by the thousands on farmland and along main roads, lying in wait for unsuspecting individuals attempting to reclaim their homelands. All too often the victims of these weapons are children.

The United States is not a primary exporter of landmines. In fact, the number of U.S.-produced landmines is relatively small. Our country has shown leadership by signing the 1981 "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects." This legislation we are introducing today builds upon that leadership by urging the President to submit this convention to the Senate for ratification, and by setting the example of not providing these weapons to anyone for 1 year.

We are closing the chapter on chemical weapons. The threat of nuclear war has never been more remote. Let us use this opportunity to rid the world of one more weapon of indiscriminate destruction by taking the lead in banning landmines.

By Mr. BOND:

S. 3099. A bill to require the sine die adjournment of Congress by October 15 of each year; to the Committee on Governmental Affairs.

SINE DIE ADJOURNMENT BILL

Mr. BOND. Mr. President, as I travel around Missouri, one comment I hear over and over is—you have to do something to clean up the mess in Washington. The budget deficit, partisan bickering, stalemate, indecision, finger-pointing on the economy and the many scandals have led to an ever declining respect for anything Congress says or does.

The House banking and post office scandals, the Keating Five, plus the weekly stories of other ethics troubles of Members and staff have led many Americans to conclude that Congress is just a bunch of do-nothing, spendthrifts who feel they are above playing by the rules.

I think that it is time to restore the faith of the American people in their government. Congress has got to start playing by the rules. We have to start being more ethically and fiscally responsible.

I particularly commend my colleagues, the Senator from Oklahoma, Senator BOREN, and the Senator from New Mexico, Senator DOMENICI, for the leadership that they have taken in proposing a study of the reforms necessary to make the Congress work efficiently, and to regain the trust and confidence of the American people.

Today I am introducing two measures to start the process and to start the discussion about how Congress does its business. I have set out what I think are three badly needed reforms.

First, we need to change radically the current factfinding process of the Senate Ethics Committee where members judge their own colleagues. Some have called it the fox guarding the chicken coop, but I believe that Senators who have violated the rules of ethical conduct should be punished, not have their actions covered up by their colleagues

Mr. President, the time has come to face the fact that the Senate Ethics Committee is not capable of one of the major jobs they have been assigned—the self-policing and judging of their own. Their actions have led to a loss of confidence by the public—thus their recommendations, both the fair and the unfair, have come under suspicion. This hurts not only the Congress as a whole, but also taints every innocent verdict made by the committee.

We are thus left in the untenable position of the public doubting the validity of any Ethics Committee action, even those where the answers are clear cut—and the downward spiral of public confidence continues.

Mr. President, this sorry state of affairs has led me to the conclusion that the only real solution is to wipe the slate clean and start over. This means relieving the Senate Ethics Committee of the job of judging Senators and transferring that responsibility to an Independent Senate Ethics Commission made up of three retired State or Federal judges.

No more political pressures brought to bear on colleagues to go lightly; no more partisan deal cutting to save some at the expense of others; and no more suspicion that the system can't work because of the tremendous pressures members feel when they have to judge their own colleagues and friends.

Instead, we need independent, outside jurists to take on the task of deciding whether or not a Senator has acted improperly and to make recommendations as to the appropriate sanctions. That way the innocent won't be held hostage to the guilty; and the guilty will receive their just punishment.

The recommendations of an ethics panel should not be based on, or colored by, the political ramifications of releasing the findings. I believe the only way we will get to this point is to create an independent, outside commission to handle ethics investigations.

In order to keep the independent Senate Ethics Commission as nonpartisan as possible, the majority leader and minority leader would each get to select one retired judge, and together the two nominees would select the third.

The members of the Commission would serve a term of 3 years and could be reappointed for two additional terms.

The Commission would take over the fact finding duties of the current Senate Ethics Committee and would therefore act when actual complaints are brought against a member. It would then make informal preliminary inquiries to determine whether a formal investigation is warranted.

If it finds that a formal investigation is warranted, it would conduct an investigation. In addition, it would have the authority to hold hearings and to appoint a special counsel for investigations.

At the conclusion of an investigation, the Commission would submit a report to the Senate stating its findings and making recommendations.

The American people do not want a rubber stamp for an ethics committee, and those of us in Congress who have high standards and want them upheld do not want it either. We think people who violate the standards of conduct in Congress ought to be dealt with.

Let us get a straight answer, the people deserve it and frankly, those of us in Congress who are outraged by ethical violations demand it as well.

Second, this legislation cuts committee staff and budgets by 25 percent by 1994. One of the headlines in last week's Roll Call read: one out of every 11 House committee staffers paid $100,000 or more annually.

This is outrageous. The American public has a right to be upset about the way we spend their tax dollars, and staff expense has become one of the fastest growing programs in the budget.

Congress has gotten too big and committee staffs have become so large that they are essentially unelected governments. Many seem to operate on their own—without any oversight and I believe this should be drastically curtailed.

On too many occasions staff has inserted complicated last minute provisions that nobody knows about or fully understands until the committee staffers themselves retire and go out into the private sector so they can make a fortune telling people what they meant.

On other occasions, the agenda of unelected staff seems to take precedence over the agenda of the members of the committee—an indication of bad management as much as anything, but the results remain the same. Reducing committee staff addresses both this problem as well as saving taxpayers' dollars. For if we cannot tighten our belts on the Hill, how can we expect the American people to believe us when we say we are serious about deficit reduction?

And finally, my legislation would set a mandatory adjournment date at October 15, and would prohibit Members from being paid after that date unless both Houses have adjourned sine die, or the President has used his constitutional authority to call the Congress back into session.

This would force Congress to take care of all of its business by October 15. This no-pay incentive should help us to finish our legislative work early enough to be able to spend more time among our constituents back home in our States.

Over the years it seems to me that Congress has gotten worse and worse in terms of wasting its time doing absolutely nothing for months and then, at the last minute trying to debate vital, controversial legislation. The result is often half thought out pieces of legislation, 1,000 page omnibus bills that are so large that the Members aren't even sure what they're voting on, and take-it or leave-it proposals.

State legislatures around the country have mandatory adjournment dates, Missouri being one of them—for the precise reason of forcing members to meet deadlines and get their work done. In Missouri, we have even shortened the state legislative session! I believe a little similar discipline might not be a bad idea because I know we can get all of our real business finished by October 15.

Mr. President, each of these reforms are good first steps toward making the Congress more accountable and more effective. For too many years—seemingly getting worse each year—I believe the goal has been shifting from policy achievements to political gains.

As a result, a congressional leader is measured by partisan victories or number of seats gained rather than by public policy gains or losses which occurred on their watch. Instead of working with colleagues and an administration in order to improve programs, try new ideas or shift priorities, the aim seems to be to score political points.

I believe that we must face up to these disquieting trends, and face the fact that we must reform the way Congress does business. The public is not

well served by our current approach and their frustration and anger is well founded. That is why I believe these radical steps must be taken: eliminate unelected, committee staff fiefdoms; set a mandatory adjournment date; and create a credible ethics watchdog.

I have spoken to Senators DOMENICI and BOREN the coauthors of a congressional reform commission which will begin meeting later this year about these ideas. They both agree that real, meaningful reforms are vital, and I hope to work with them to see reforms are made. In follow-up to my discussion I will be sending a copy of this legislation along with several other congressional and budget reforms I believe we must make.

But Mr. President, we must start somewhere, and I believe the three steps I have outlined today are good first steps toward making the Congress an instrument of the people again.

Mr. President, I thank you and ask that a copy of the bill be printed in the RECORD following my statement.

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

S. 3019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SINE DIE ADJOURNMENT OF CONGRESS BY OCTOBER 15 OF EACH YEAR.

Section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this subsection, basic pay for service in a position described in paragraph (1) shall not be payable for any day during the period beginning on October 16 of a year and ending on January 2 of the following year unless the day follows the sine die adjournment of the last regular session of Congress that began before the start of that period.

"(B) Subparagraph (A) does not apply with respect to any day on which—

"(i) a state of war exists pursuant to a declaration of war by the Congress; or

"(ii) the Congress is in session, having been convened by the President under article II, section 3 of the Constitution.".

By Mr. GRAHAM:

S. 3101. A bill to authorize a White House Conference on Juvenile Justice; to the Committee on the Judiciary.

WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE ACT OF 1992

• Mr. GRAHAM. Mr. President, today I rise to introduce legislation which would authorize a series of regional conferences, culminating in a White House conference, to address the need for comprehensive reform in our Nation's juvenile justice systems.

In 1974, Congress authorized the Juvenile Justice and Delinquency Prevention Act [JJDPA] which created the Office on Juvenile Justice and Delinquency Prevention in the Department of Justice. This office coordinates all Federal and State grant programs for juvenile justice and runaway and homeless youth and serves as a national center on missing and exploited children.

In traveling through my home State of Florida, I have spoken with women and men who have devoted their lives to the prevention and treatment of juvenile delinquency, serving as judges, State juvenile care providers, law enforcement officers, educators, social workers and other professionals.

These dedicated Floridians have conveyed to me the concerns that Federal juvenile law does not adequately address the issues of cause of juvenile delinquency or of effective intervention in the lives of at-risk juveniles.

They have identified three goals that a White House conference proposed by this legislation can achieve which existing Federal and State programs have not.

First, the conference will create a forum for information exchange. Certain States, most notably Massachusetts and Utah, operate innovative programs which have experienced demonstrable successes. Other States and the Federal Government can only benefit from exposure to such successes.

Second, a comprehensive, grassroots national strategy developed by local representatives at a national conference and implemented by local and State authorities must be initiated to properly address our Nation's troubled juveniles and the communities that are racked by youth violence. Only with such a strategy can we begin to address these issues throughout the country.

Third, an attempt must be made to change the way in which government and the public see juvenile justice and delinquency issues. All must understand that these are not discreet problems but are, rather, integral parts of the larger pattern of social breakdown which we as a Nation are currently attempting to address.

Mr. President, a White House Conference on Juvenile Justice bringing together juvenile justice and delinquency prevention experts from every State in the Nation is the only way to effectively rejuvenate national dialog and share ideas about Federal and local juvenile justice and delinquency prevention programs.

I urge my colleagues to join me in securing a timely passage of this legislation.

I ask unanimous consent that the text of the legislation be included in the RECORD at this time.

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

S. 3101

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 "White House Conference on Juvenile Justice Act of 1992".

SEC. 2. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) FINDINGS.—The Congress finds that—

(1) although the overall youthful crime rate dropped 18 percent in the decade between 1979 and 1989, the Nation's daily population of minors in juvenile facilities rose 45 percent during that same period;

(2) between 1989 and 1990 the number of youth arrests for Violent Crime Index offenses increased 16 percent;

(3) the rising rate of violent and drug-related juvenile crime plaguing many communities requires new efforts to understand and address juvenile delinquency so as to ameliorate the burden being borne by these communities;

(4) the explosion of the population of minors in juvenile facilities has led to overcrowding in over 50 percent of the juvenile training schools in the country;

(5) overcrowding in juvenile facilities has led to the employment of such controlling tactics as isolation and abusive restraint;

(6) the practice of trying juveniles in adult courts, or "adultification", has become more common in the last 10 years, resulting in growing numbers of minors serving sentences in adult jails;

(7) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency by providing community-based education and rehabilitation in addition to constructive punishment; and

(8) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and with private organizations concerned with the issues and programs relating to juvenile justice and juvenile delinquency prevention to develop recommendations and plans for action to meet the challenges and needs of juvenile offenders and the overburdened juvenile justice systems of the States, consistent with the objectives of this Act; and

(2) in developing programs pursuant to this Act, emphasis should be directed toward individual, private, and public initiatives and resources aimed at preventing juvenile delinquency, juvenile recidivism, and at improving State juvenile rehabilitation programs.

SEC. 3. AUTHORIZATION AND PURPOSES OF THE CONFERENCE.

(a) IN GENERAL.—The President shall call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with the provisions of this Act.

(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

(2) to examine the status of minors currently in the juvenile and adult justice systems;

(3) to assemble individuals involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

(4) to create a forum in which such individuals and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

(c) SCHEDULE OF CONFERENCES.—Conferences under this Act shall be held at least once during each 5-year period, but not more often than once in each 3-year period. No conference shall be held during a Presidential election year. The first Conference under this Act shall be concluded not later than 18 months after the date of enactment of this Act.

(d) PRIOR STATE AND REGIONAL CONFERENCES.—

(1) IN GENERAL.—Participants in a Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this Act. State conferences shall elect delegates to the National Conferences.

(3) ADMITTANCE.—No person involved in administering State juvenile justice programs, providing services to, or advocacy of, juvenile offenders may be denied admission to any State or regional conference.

SEC. 4. CONFERENCE PARTICIPANTS.

(a) IN GENERAL.—The Conference shall bring together individuals concerned with the issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

(b) SELECTION.—

(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

(2) APPOINTED DELEGATES.—In addition to delegates elected pursuant to paragraph (1)—

(A) each Governor may appoint 1 delegate and 1 alternate;

(B) the Majority Leader of the Senate, in consultation with the Minority Leader, may appoint 10 delegates and 3 alternates;

(C) the Speaker of the House of Representatives, in consultation with the Minority Leader, may appoint 10 delegates and 3 alternates;

(D) the President may appoint 20 delegates and 5 alternates;

(E) the chief law enforcement official and the chief juvenile corrections official from each State may appoint 1 delegate and 1 alternate each; and

(F) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate and 1 alternate each. Only individuals involved in administering State juvenile justice programs, providing services to, or advocacy for, juvenile offenders shall be eligible for appointment pursuant to this paragraph.

(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this Act or the Juvenile Justice and Delinquency Prevention Act.

(d) NO FEES.—No fee may be imposed on any person attending a Conference except a registration fee of not to exceed $10.

SEC. 5. STAFF AND EXECUTIVE DIRECTOR.

(a) IN GENERAL.—The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director.

(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

SEC. 6. PLANNING AND ADMINISTRATION OF CONFERENCE.

(a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) EXECUTIVE DIRECTOR OF THE COALITION OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION ADVISORY COMMITTEES.—In carrying out the provisions of this Act, the executive director of the Coalition of Juvenile Justice and Delinquency Prevention Advisory Committees—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized by section 3(d);

(2) is authorized to enter into contracts and agreements with public agencies, private organizations, and academic institutions to carry out the provisions of this Act; and

(3) shall assist in carrying out the provision of this Act by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

SEC. 7. REPORTS REQUIRED.

Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be made available to the public.

SEC. 8. OVERSIGHT.

The Office of Juvenile Justice and Delinquency Prevention shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.

SEC. 9. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—There are hereby authorized to be appropriated not to exceed $3,000,000 for each National Conference and associated State and regional conferences under this Act. Such sums shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) USE OF OTHER FUNDS PROHIBITED.—No funds appropriated to the Juvenile Justice and Delinquency Prevention Act shall be made available to carry out the provisions of this Act other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference, including submission of the report pursuant to section 7, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.•

By Mr. SIMON:

S. 3102. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Finance.

CORPORATE DEDUCTION ALLOWANCES AMENDMENTS ACT

Mr. SIMON. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to limit the interest deduction allowed corporations and to allow a deduction for dividents paid by corporations.

Our current system of taxation encourages American businesses to use debt, rather than equity, to provide needed financing.

My proposal would be revenue neutral, though in the long run it should add to revenue because it helps the economy. I propose that, with some exceptions, 20 percent of the interest payments of all but the smallest corporations—including farm corporations—should not be deductible, but that 50 percent of dividends should be deductible.

We have been working these days in the Senate on the question of the Federal debt. It is unbelievably bad. We have to deal with it. If tomorrow we pass the balanced budget constitutional amendment—which, unfortunately, we are not going to do tomorrow—while we will have helped the economy significantly, much more will remain to be done, because it is not only the Federal Government that has piled up debt. Individuals have, and corporations have. We live in a culture of debt. Like any good thing, debt can be valuable and helpful if taken in small quantities. However, like an alcoholic, we have overimbibed to the point that we threaten the economic future of our Nation and of our children and generations to come.

This proposal is one piece of a mosaic to respond to our problems.

I offer it not as a conclusive answer about what should be done, but I offer it urging that my colleagues on the Senate Finance Committee study it. I am sending a copy of my remarks, together with the bill, to all members of the Finance Committee. I ask them to look at the concept carefully, a concept that is sound.

If a corporation—and by way of clarification for those of you who are listening, what I am suggesting, again, is that 20 percent of a corporation's interest is not deductible, but that 50 percent of dividends would be deductible.

If a corporation borrows money to acquire another company or to buy equipment or for any other purpose, the interest on that debt is deductible, even though the debt can—and often

does—put the corporation in a precarious position. But if the same corporation issues stock, and then pays dividends, there is no deduction. The tax laws favor debt.

That same corporation, if it cannot meet the payments of principal and interest, will have to sell itself or go bankrupt, neither of which are desirable goals. But if that corporation issues stock, and there is a dip in the economy, the only penalty the corporation must pay is that it cannot issue dividends. It can continue to thrive, employ people, and be a productive part of our society.

In the 1980's, we saw a great increase in corporate indebtedness, Mr. President. The aggregate debt of U.S. nonfinancial firms was $800 billion in 1980; by the end of the decade the aggregate debt had increased to a little over $2 trillion. This resulted in many of our businesses declaring bankruptcy, and it resulted in massive leveraged buyout activity.

The tax laws were not the only cause. But tax laws have encouraged corporations and banks and law firms to make the fast buck, rather than do the slow, solid things that are necessary to build their business and the economy of this Nation. I favor tax laws that give corporations deductions for research, for creating jobs, for adding to the productivity of the Nation. But our tax laws have encouraged corporations to gobble each other up, diminishing the productive capacity of the Nation, rather than building it.

There also are other factors, including a national administration that was an indifferent observer to all of this, an administration that thought if you simply let the market run wild, everyone would be well served. The icing on the cake was anemic enforcement of antitrust laws.

All of this was compounded by the Federal deficit, which has sent real long-term interest rates higher, causing an overvalued dollar, and which in turn caused exports to drop, imports to rise, and plants to be built outside the United States.

The plague of business bankruptcies has continued into the 1990's, with a number of large firms going into bankruptcy within the past 6 months.

While there are other factors involved, our current tax policy certainly has encouraged the increase in borrowing and merger activity, and it would be unwise to allow this policy to continue.

The objective of my bill is to reduce the incentives for corporate debt rather than equity. My bill does this by disallowing 20 percent of a corporation's interest deductions while providing a 50-percent deduction for dividends paid by corporations.

I have sounded out the idea with a few business executives, and the general reaction has been highly favorable. The same is true among economists I have consulted.

I have exempted small corporations and farming businesses from my bill. But there may have to be some other exceptions, such as firms that deal in real estate—though businesses like these also have much to gain under this proposal, because less demand for lending will mean lower interest rates. And that helps almost all businesses, particularly these. I hope that Senate Finance Committee hearings on this bill will illuminate those problems. If necessary, appropriate exceptions to the interest deduction limitations could be drawn, in addition to the ones included in the bill.

Corporations that pile up huge debt eventually have to pay that debt or go into bankruptcy. When one corporation goes into bankruptcy, other businesses that depend on it may face the same prospect. Pension funds, where much of the debt financing originates, get hurt, as do the employees who have no knowledge of what is happening to their retirement base.

If there can be a gradual shift to equity financing, bankruptcies will diminish, and because of the lowered demands on borrowing, interest rates should decline—helping the Nation in many ways, including making it easier to finance through equity. The Nation's business community, thrift institutions, and pension funds will have greater stability, and the Nation's economy will be stronger.

Mr. President, I hope my colleagues will join in supporting this needed legislation. It is not written in concrete. The idea here is sound, but I recognize that it needs to be refined. I hope that the refinement can take place, that we can encourage equity financing more than debt financing, and that the Nation can gradually move away from the quicksand of excessive debt, both in the public sector and in the private sector.

By Mr. BINGAMAN:

S. 3106. A bill to extend the deadline for compliance with certain drinking water regulations, and for other purposes; to the Committee on Energy and Natural Resources.

DEADLINE EXTENSION FOR CERTAIN REGULATIONS ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to provide short-term relief for our Nation's small water systems, which are struggling to comply with EPA regulations issued under the 1987 amendments to the Safe Drinking Water Act. Although Congress did not intend the Safe Drinking Water Act to have a punitive effect on small communities struggling to provide economical, safe drinking water to their citizens, the cost of compliance with some of these rules is proving to be prohibitively high. All over New Mexico, and in many other States as well, small water systems are faced with a terrible choice that is really no choice at all: Going broke, or being fined by EPA or their State environment departments for failure to comply with Safe Drinking Water Act regulations.

Mr. President, this is simply an economies of scale problem. The lead and copper rule and the phase II and phase V rules for synthetic organic and inorganic chemicals will require these small systems to test for over 100 contaminants on a frequent basis. But small, particularly rural, water systems do not have the means to make these tests themselves, and will have to contract with laboratories or larger municipalities. The cost to these small water systems could run into the thousands of dollars every year. These costs would ultimately be borne by the water users, and result in large increases to individual water bills.

Mr. President, the intended benefits of the Safe Drinking Water Act will be negated if implementation of the regulations forces the shutdown of community water systems and drives families back to unsafe water sources. I am not advocating a rollback of standards necessary to ensure safe drinking water. But these small systems need a temporary reprieve to buy the necessary time for EPA and Congress to address the economics of safe drinking water.

The bill I am introducing today directs the Administrator to extend the deadline for compliance with the national primary drinking water regulations for lead and copper by 1 year. It makes a similar direction for the phase II regulations for 26 synthetic organic chemicals and 7 inorganic chemicals; and the phase V regulations for 18 synthetic organic chemicals and 5 inorganic chemicals. These rules have already been promulgated, Mr. President; my amendment just extends the deadline for implementation for 1 year.

This legislation also requires the Administrator, during the course of that year, to conduct research on the degree of health risks from noncompliance with the regulations by small and medium-size water systems, and the economic cost of compliance with the regulation. It is not at all clear, Mr. President, that it makes sense for all of the Nation's drinking water systems to test for all of these contaminants, all of the time. Based on these findings, the Administrator will present a report, complete with recommendations for any legislative changes that may help small communities, to Congress.

Mr. President, this is not intended to be the final, comprehensive solution to the compliance problems of small water systems. It is intended to provide short-term relief until Congress can take up the Safe Drinking Water Act in the 103d Congress. This legislation will also buy EPA some time to work with communities on innovations

and compromises that will remove the immediate threat of penalties and fines. These efforts notwithstanding, it is also incumbent upon the Federal Government to fully fund the Safe Drinking Water Supply Program. We must give the States the means to comply with the laws that Congress passes.

In conclusion, Mr. President, I note that my colleague from New Mexico, Mr. DOMENICI, has also introduced a bill related to the Safe Drinking Water Act regulations. He has had a longstanding concern about this issue and has made very constructive contributions to dealing with the problems. It is my hope that we can work together to address the needs of small water systems.

By Mr. BAUCUS:

S. 3107. A bill to provide for the protection of vertebrate paleontological resources, and for other purposes; to the Committee on Energy and Natural Resources.

VERTEBRATE PALEONTOLOGICAL RESOURCES PROTECTION ACT

Mr. BAUCUS. Mr. President, today I am introducing legislation that will protect one of our country's most valuable historical and scientific resources from a growing problem of commercial exploitation.

Recently, the oldest, most complete skeleton of a juvenile allosaur dinosaur was found in Greybull, WY. It was named "Big Al." And while most of us would be inspired by the scientific wonders of such an important discovery, unfortunately, there are some who see little more than dollar signs.

These fossils are an important aspect of our national heritage and have tremendous scientific and educational value. They are a priceless source of information about our past, our environmental history, and the lifestyles of these ancient creatures.

Yet there are increasing examples of vandalism and commercial pressure for exploitation of these fossils, doing, irreparable damage to their scientific value.

Their rarity and recent rise in popularity have fueled a highly competitive commercial market not only in the United States, but abroad. For example, it has been estimated that if Big Al had been sold on the open market, it could have commanded $500,000, or even more, for its discoverer.

Some commercial collectors may defer to the historical and scientific value of their discoveries. But many do not. I believe that we must ensure that important fossil resources found on Federal land remain in the public domain, not locked away in some private collection.

If we continue to allow these public resources to be sold to the highest bidder, we stand to lose crucial sources of scientific research and public education.

And we also run the risk that these treasures may never be placed in a public collection for the enjoyment and education of all our citizens. Many American museums and educational institutions simply do not have the financial resources to compete in this type of seller's market.

As an example, in my State of Montana the Museum of the Rockies in Bozeman houses Big Al, along with a tyrannosaurus rex from Montana. The Museum of the Rockies provides a unique, world acclaimed collection of fossil remains.

The ongoing research at this institution provides extensive public education about the environment in which dinosaurs and other fossil vertebrates lived. Yet, I doubt that this museum, or many others could afford $½ million for one fossil. In which case a tremendous educational resource could be lost to the American public.

There are many commercial opportunities available on Federal lands, but selling these historical national treasures should not be one. We manage these lands as a public trust for all the people.

However, current Federal law does not provide the comprehensive protection these fossils need.

The bill I am introducing today would fill this gap and eliminate much of the confusion that currently exists. This bill will protect paleontological resources much as archaeological resources on Federal land are now protected.

It would require a permit for the exploration and collection of paleontological resources on public land. Permits would be issued for scientific, educational, and public display uses. Amateur collectors also can apply for permits and continue their activities.

While some collectors endanger the very resource they profess to value, it is important to note that there are many amateur and private collectors who perform a vital role for the scientific and educational communities. This bill allows these individuals to continue to collect fossils on Federal land.

Likewise, the bill also allows reputable commercial collectors to continue their operations. In order to encourage expert handling in the removal of fossil resources, suitable institutions, as defined in the bill, can contract for commercial excavation services.

In this way, commercial collectors with high ethical standards and skills can continue to market their services. But the resource itself must still not be sold out of the public domain.

Let me emphasize one point. Permits would not be issued for commercial collecting and resale. Individuals who knowingly violate the intent of this act will face criminal and civil penalties. However, since this bill only affects fossils found on public land, millions of acres of private land would still be available for commercial collecting.

This bill also confirms that all scientifically significant vertebrate fossils found on Federal lands will remain the property of all the people. These fossils will be catalogued and maintained in institutions that have established policies for the preservation of these resources. And they will be accessible for scientific study and for educational purposes.

Equally important, this legislation directs Federal land managers to establish programs to increase public awareness of the significance of the paleontological resources located on public lands. Paleontological societies are also strongly encouraged to develop educational programs to share information with private landowners and collectors.

Mr. President, I hope this bill will be the starting point for a dialog that will bring consensus on how to protect fossil remains on Federal land. I encourage all interested individuals and organizations to add their voice to this public debate. The preservation of these invaluable national historic resources for future generations can be accomplished if we begin now.

By Mr. CRANSTON:

S. 3108. A bill to amend title 38, United States Code, with respect to housing loans for veterans; to the Committee on Veterans' Affairs.

VETERANS HOME LOAN PROGRAM REVITALIZATION ACT OF 1992

Mr. CRANSTON. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I have introduced today S. 3108, the proposed Veterans Home Loan Program Revitalization Act of 1992. Joining me as original cosponsor is committee member DANIEL K. AKAKA.

Mr. President, home loans guaranteed by the Department of Veterans' Affairs have been providing housing opportunities for our Nation's veterans since Congress enacted the VA homeloan program as part of the Servicemen's Readjustment Act of 1944. VA-guaranteed home loans have been especially helpful to veterans who, because of their military service, have been unable to save enough money to make a downpayment on a home or to establish the credit history necessary to obtain a loan without one. Since 1944, VA has guaranteed approximately 13,300,000 loans totaling more than $375 billion.

Mr. President, in 1989, Congress enacted major changes to the loan-guaranty program, in title III of the Veterans' Benefits Amendments of 1989, Public Law 101-237, that strengthened the program's financial stability.

The 1989 law has helped to control losses in the program, but it was not designed to address the continuing de-

cline in the use of VA-guaranteed home loans. The market share that VA-guaranteed mortgages represent has dropped from over 10 percent in 1983 to under 3 percent today. The declining market share largely results from the program's failure to keep pace with a changing and increasingly complex mortgage market.

Most disturbing, Mr. President, the declining market share reflect the declining value of this veterans benefit. Congress must act to reverse this trend and restore the value of this vital program.

Mr. President, to help achieve this goal, the bill I am introducing today would authorize VA to guarantee adjustable rate mortgages, establish a pilot program of energy efficient mortgages, and allow veterans to bargain for better interest rates and sales prices during a 2-year test of negotiated interest rates.

NEGOTIATED INTEREST RATES

Mr. President, the negotiated interest rate provision in the bill is a fair, limited test of eliminating administratively set interest rates on VA loans. This test is long overdue.

Under current law, VA administratively establishes a national maximum interest rate for VA-guaranteed loans. Veterans are prohibited from paying discount points on a VA loan in order to obtain a lower interest rate. This means that when a buyer wants to use a VA-guaranteed loan, the seller must pay all of the points.

To illustrate, in January, the VA interest rate was 8 percent, but the market rate was increasing. Just before VA finally raised its rate to 8.5 percent, lenders were charging 4.5 points for an 8-percent VA-guaranteed loan. It is obvious from this example that when the administered rate lags behind the market rate, lenders are willing to make VA-guaranteed loans only if they can receive a substantial up-front premium in the form of discount points. Since, under current law, the seller always pays the points when a VA-guaranteed loan is involved, sellers typically make up the difference by requiring a higher purchase price from veterans desiring to use a VA loan.

Veterans also suffer in a declining market. On July 6, 1992, VA lowered the maximum rate from 8.5 to 8 percent. Immediately prior to this change, most lenders were charging no points for 8.5-percent VA-guaranteed loans, since that interest rate had become higher than the market rate. But when the VA rate dropped to 8 percent, sellers suddenly were required to pay 1 or 2 points to complete the transaction. According to testimony at our committee's July 22 hearing, this caused many sellers to cancel sales involving a VA-guaranteed loan.

Mr. President, at the recent conference in Denver of VA loan guaranty officers [LGO's] from VA regional offices across the country, virtually all LGO's strongly supported going to a negotiated rate, even though the Department officially opposed this provision in the draft of this bill at our July 22 hearing.

Almost without exception, the LGO's cited the lack of a negotiated rate as the single feature most responsible for the decline of the VA housing program's market share. They said that many sellers, and even some realtors, refused to deal with anyone who planned to use a VA-guaranteed loan, because the seller is required to pay the points.

Sellers who are willing to deal with VA-guaranteed loans are less willing to bargain on price because they know their part of the closing costs will be higher. This means veterans often pay higher prices for homes when they use a VA-guaranteed loan and it means they often forego using their VA entitlement.

Mr. President, for the next 2 years, this bill would make it possible for VA to put these veterans on a level playing field with potential purchasers who plan to use conventional, FHA-insured, or other types of mortgage loans. Veterans who want to use their VA-guaranteed home-loan entitlement would not start at a disadvantage when they bid for a house against other potential purchasers.

Those who are apprehensive about negotiated rates say that the administered rate acts as a drag chute on volatile interest rates. Certainly that is one of the goals of the administered rate. But there are no data to support the conclusion that the administered rate has that effect, and in the modern mortgage market, veterans suffer when the VA-set rate is even slightly out of synch with market rates.

Mr. President, in the highly competitive mortgage lending industry, I believe that the interest rate competition that this bill would allow ultimately will reduce veterans' costs for housing.

At the committee's July 22 hearing, VA opposed this provision, but Deputy Secretary Anthony J. Principi, who is very knowledgeable about VA housing programs and always has an open mind, promised to take a second look at the issue. Some veterans organizations opposed the provision, but others did not. Organizations, representing realtors, lenders, and homebuilders strongly support negotiated rates.

In recognition of the concerns of some veterans organizations, I have incorporated several important limits into this provision. First, it would authorize negotiated rates only for the next 2 years, after which Congress could evaluate the experience with negotiated rates before deciding whether to reauthorize the procedure. Second, it provides a safety value to allow the Secretary to return to an administered rate if he believes that veterans are being harmed by the negotiated rate.

Mr. President, I am convinced that veterans will not be gouged by lenders as a result of this provision. In this highly competitive market, it clearly is against a lender's interest to require an exorbitant interest rate on VA-guaranteed loans. Nevertheless, the Secretary has the power to take action to prevent gouging if it occurs.

ADJUSTABLE RATE MORTGAGES

Mr. President, this bill also would provide authority for VA to guarantee adjustable rate mortgages for the first time. VA-guaranteed loans are the only segment of the single-family mortgage market that does not offer adjustable rate mortgages.

I have been very cautious about pushing VA into this product because it is inherently more risky for both the borrower and the backer—American taxpayers. In the first years that adjustable rate mortgages were offered, abuses were rampant and default rates were high.

The market for ARM's has matured, however, and limitations placed on interest rate adjustments have brought defaults down to reasonable levels, although ARM's still have default rates somewhat higher than fixed rate mortgages.

Typical ARM's in the conventional mortgage market limit annual interest rate adjustments to no more than 2 percentage points up or down and limit the rate at any time during the term of the loan to no more than 6 percentage points above the initial rate. This 2/6 limitation dampens the wide swings in monthly payments that could occur with some early versions of ARM's.

ARM's insured by the Federal Housing Administration of the Department of Housing and Urban Development are even more conservative. The annual adjustment cap for FHA-insured loans is 1 percent up or down and the life time cap is 5 percent. FHA also imposes strict underwriting requirements to ensure that a borrower will remain able to make monthly payments even if those payments increase significantly as a result of annual interest rate adjustments. FHA also requires disclosure to loan applicants of the maximum increases that could occur under the adjustable rate mortgage.

The 5-year ARM pilot program that this bill would establish for VA generally adopts the very conservative limitations that apply to FHA-insured ARM's. The bill itself expresses these limits, so VA could not adopt more liberal standards.

Mr. President, the reports that the bill would require will at the end of the 5-year trial period, place Congress in a well-informed position to decide whether ARM's should be a permanent part of the VA-guaranteed home loan program and, if so, whether the ARM product in this bill contains the appropriate limitations and requirements.

During the committee's July 22, 1992, hearing on a draft of this legislation, I

was pleased to hear the administration support a pilot ARM program for the first time. Veterans organizations and housing industry representatives also strongly supported VA-guaranteed ARM's.

ENERGY EFFICIENT MORTGAGES

Mr. President, the bill would establish a new pilot program of energy efficient mortgage to encourage veterans who buy existing homes to incorporate energy-saving improvements into the home. The program would allow veterans to finance the greater of $4,000 or 5 percent of the home's price up to $8,000 as part of the original loan for the property. The additional amount of the guaranty would not count against the veteran's entitlement or against the regular guaranty limits.

Mr. President, the true value of energy efficiency often goes unrecognized in traditional appraisals of a property's value. Especially when the measures are innovative and relatively uncommon, such as solar heating, appraisers often cannot find the traditional three comparable recent home sales against which they can compare the value of the house with energy efficiency improvements.

Thus, the appraisal might not support the additional financing necessary to make the improvements, even when it is easy to show that the improvements immediately would reduce energy costs by more than the amount of the associated increase in mortgage payments.

VA already has one of the most successful EEM programs among Government housing programs. Unfortunately, relative success in this field is measured in tiny numbers. VA estimates that it has averaged less than 10 EEM's nationwide each year since the program started in 1980. But VA also claims that its procedures for tracking EEM's is so faulty that the number of EEM's is severely underreported.

In my view, the problem with the current VA program is the appraisal situation I just described. Although current VA EEM underwriting rules allow a lender to consider energy savings in determining whether a veteran can afford the loan, VA procedures still require a supporting appraisal for significant energy efficiency improvements. The procedural requirement has made current EEM's impractical and inconvenient. Many veterans—and lenders—are unaware that the lender can consider potential energy savings that would result from energy efficiency improvements financed as part of the original loan. Indeed, very few veterans know that VA EEM's are available, or how to apply for one, before they learn about them in the course of obtaining a VA-guaranteed loan.

Mr. President, this bill would create a streamlined process for obtaining one of the pilot program EEM's. Where the applicant can demonstrate that the energy savings will exceed the increased monthly mortgage costs, the bill would eliminate the need for an appraisal that specifically supports the energy efficiency improvements. In short, these new EEM's would substitute an energy efficient standard for an appraised value standard for the portion of the loan that would finance the energy efficiency improvements.

The bill would approach this new idea cautiously, establishing limitations on the 2-year pilot program and keeping VA's existing EEM intact. The bill would allow VA to guarantee only 1,250 new-style EEM's and would let the Secretary stop the pilot program if the incremental costs exceed a total of $2 million for the 2-year period.

Mr. President, this bill would be consistent with the national energy policy adopted by the Senate when it passed S. 2166, which contained a similar provision, in section 6102, that applied to both FHA-insured and VA-guaranteed home loans. Also, as chairman of the Housing and Urban Affairs Subcommittee of the Banking Committee, I simultaneously am pursuing a separate, similar program for FHA-insured home loans, which is included in section 943 of S. 3031 as reported by the Banking Committee on July 23, 1992.

Mr. President, veterans organizations and housing industry representatives strongly supported this energy efficient mortgage pilot program during the committee's July 22 hearing. VA testified that it would prefer to update the dollar limits of its current EEM program, rather than creating a new program based on different standards. Although I was disappointed that VA could not support the pilot program, I was pleased to hear VA pledge at that hearing to update its current program regardless of the outcome of this legislation.

CONCLUSION

Mr. President, Congress must not allow VA-guaranteed home loans to become obsolete. The improvements I am proposing today will restore and increase the value of this benefit by making VA-guaranteed loans a more competitive, modern tool to help veterans achieve the American dream of home ownership. I urge all of my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill and a summary of the bill be printed in the RECORD.

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

S. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Revitalization Act of 1992".

SEC. 2. ADJUSTABLE RATE MORTGAGE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program under this section during fiscal years 1993 through 1997 to demonstrate the feasibility of guaranteeing mortgages that provide for periodic adjustments by the mortgagee in the effective rate of interest charged. A mortgage may be guaranteed under this section only if it meets the requirements of chapter 37 of title 38, United States Code, except as those requirements are modified by this section.

(b) ADJUSTMENTS AUTHORIZED.—Interest rate adjustments or a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) UNDERWRITING STANDARDS.—The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) REGULATIONS.—The Secretary shall issue regulations requiring that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first 5 years of the mortgage term.

(e) LIMITATIONS.—The aggregate number of mortgages and loans guaranteed under this section, may not exceed 10 percent of the aggregate number of mortgages and loans guaranteed by the Secretary under chapter 37 of title 38, United States Code, during the preceding fiscal year.

(f) REPORTS.—Not later than 1 year after the date on which the Secretary first exercises the authority to guarantee loans under this section, and for each of the four years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program under this section. Each report shall contain a summary of loan activity for loans guaranteed under this section, including information pertaining to defaults and comparisons with the default rates for fixed-rate loans guaranteed under chapter 37 of title 38, United States Code, fixed-rate and adjustable rate loans insured under title II of the National Housing Act, and loans made in the conventional mortgage market.

SEC. 3. ENERGY EFFICIENT MORTGAGES.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program under this section during fiscal years 1993 and 1994 to demonstrate the feasibility of guaranteeing mortgages for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling. A mortgage may be guaranteed under this section only if it meets the requirements of chapter 37 of title 38, United States Code, except as those requirements are modified by this section.

(b) IMPROVEMENTS AUTHORIZED.—The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not—

(1) exceed the greater of—

(A) $4,000; or

(B) an amount that is equal to 5 percent of the value of the dwelling before installation of the energy efficiency improvements but does not exceed $8,000; or

(2) increase the monthly payment for principal and interest by an amount greater than the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

(c) GUARANTEE.—The Secretary shall guarantee a loan under this section in the same proportion as the guaranty that would be provided under section 3703(a)(1)(A) of title 38, United States Code, for the dwelling without the energy efficiency improvements. The amount of a veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of title 38, shall not be affected by the incremental amount of the guaranty provided for the portion of the loan necessary to finance the energy efficiency improvements.

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(e) LIMITATIONS.—The pilot program under this section shall be carried out in not fewer than 5 nor more than 10 States. The aggregate number of mortgages and loans guaranteed under this section, may not exceed 1,250 during fiscal years 1993 and 1994.

(f) OUTREACH.—The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors in the States in which the pilot program will be carried out of the availability of loan guarantees under this section and the procedures and requirements that apply to the obtaining of such guarantees.

(g) TERMINATION.—If the Secretary finds that the aggregate incremental cost of the pilot program under this section will exceed a total of $2,000,000 during fiscal years 1993 and 1994, the Secretary may terminate the program under this section prior to the close of fiscal year 1994.

(h) REPORTS.—Not later than 1 year after the date on which the Secretary first exercises the authority to guarantee loans under this section, and for each of the 5 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pilot program under this section. Each such report shall contain information pertaining to default rates on the mortgages guaranteed under this section and information on the effect of energy efficiency improvements on resale values and home utility consumption and costs.

(i) EFFECT ON OTHER LAW.—This section does not supersede or otherwise affect the guarantee authority under section 3710(a)(7) of title 38, United States Code.

SEC. 4. NEGOTIATED INTEREST RATES.

(a) IN GENERAL.—Section 3703(c) of title 39, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for" and inserting "applicable to"; and

(B) by striking all that follows "(12 U.S.C. 1709(b))" and inserting a period; and

(2) by adding at the end the following:

"(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary shall elect to require that such loans bear interest at a rate that is—

"(i) agreed upon by the veteran and the mortgagee; or

"(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

"(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

"(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

"(D) This paragraph shall expire on December 31, 1994.".

(b) REPORT.—Not later than March 1, 1994, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points. If the Secretary has implemented that authority, the Secretary shall include in the report an assessment of the effect of that action on—

(1) the ability of veterans to obtain guaranteed and insured loans;

(2) the interest rates applicable to the loans bearing negotiated rates; and

(3) the prices paid by veterans for homes securing the loans bearing negotiated rates.

SEC. 5. EXTENSION OF ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SUMMARY OF PROVISIONS

ADJUSTABLE RATE MORTGAGE PILOT PROGRAM

1. Establish a pilot program, in FYs 1993 through 1997, of VA-guaranteed home loans bearing an adjustable interest rate.

2. Require annual adjustments in the interest rate, on the anniversary date of the loan closing, based on an index specified in regulations promulgated by the Secretary. The value of the index at any time must be readily accessible to mortgagors from generally available published secures.

3. (a) Limit the annual interest-rate adjustment to no more than 1 percentage point higher or lower than the interest rate of the loan at the time of the adjustment, and (b) limit the interest rate at any time during the term of the loan to no more than 5 percentage points above the initial rate.

4. Not limit the initial rate lenders can offer.

5. Require that the Secretary promulgate underwriting requirements for these loans that take into account (a) the interest rate derived from the most recent VA-specified index available at the time the underwriting decision is made, regardless of the actual initial rate offered by the lender, (b) the maximum and likely increases in mortgage payments that the loans would require, (c) the underwriting standards that apply to FHA adjustable rate loans, and (d) any other factors specified by the Secretary.

6. Limit the number of ARMs VA may guarantee each fiscal year to no more than 10 percent of the total number of all loans VA guaranteed during the previous fiscal year.

7. (a) Provide the same general "pilot-program" requirements as section 3 of H.R. 939 (which authorizes ARMs during FYs 1993 and 1994) but require the Secretary to submit to the Veterans' Affairs Committees five annual reports on the program, beginning one year after the date on which VA guarantees the first loan under this program, and (b) require that the reports contain information about defaults, including comparisons with the default rates for fixed-rate VA-guaranteed home loans and both fixed- and adjustable-rate loans either insured by FHA or made under conventional terms for single-family homes.

ENERGY EFFICIENT MORTGAGES

1. Establish a pilot program of energy efficient mortgages (EEMs) under which the Secretary would be authorized to guarantee not more than a total of 1,250 EEMs during FYs 1993 and 1994 in at least five, but not more than 10, States.

2. Allow EEMs for existing (but not newly constructed) homes for which the energy efficiency measures being financed are likely to reduce the monthly cost of energy used in the home by at least as much as the amount by which the energy efficiency measures would increase the borrower's monthly payments of principal and interest on the EEM, without specific regard to the reasonable (i.e., appraisable) value of the energy efficiency improvements themselves.

3. Require VA to guaranty the loan for the energy efficiency improvements in the same proportion as the guaranty that VA would provide for the underlying loan (without the energy efficiency improvements), provided that the cost of the energy efficiency measures is no more than the greater of (a) $4,000, or (b) 5 percent of the value of the home without the energy efficiency improvements, not to exceed $8,000.

4. Provide that the portion of the guaranty attributable to energy efficiency measures may be in addition to the current applicable maximum guaranty by the amount specified above (item 3) and shall not affect the loan-guaranty entitlement to which the borrower otherwise is entitled.

5. Require the Secretary to report to the Committees on Veterans' Affairs on the program one year after VA guarantees the first EEM under the program and annually thereafter for five more years, including information on the default rates for EEMs and the effects (if any) of the energy efficiency measures on resale values and home utility consumption and costs.

6. Require VA to encourage participation in the program by notifying eligible veterans, participating lenders, and interested realtors in the States in which the pilot program will be carried out about the availability of loan guaranties under the pilot program and the procedures and requirements to obtain these loans.

7. Provide the Secretary with authority to halt the demonstration project if the Secretary estimates that the total incremental costs attributable to the two-year pilot program, using accounting methods consistent with the Credit Reform Act of 1990, will exceed $2 million.

8. Require that the underwriting for EEMs take into account the likely utility-cost savings attributable to the energy efficiency measures and other factors the Secretary finds appropriate.

9. Not affect the VA EEM program currently operated under the authority of 38 U.S.C. §3710(a)(7).

AUTHORITY TO ALLOW NEGOTIATED INTEREST RATES

1. During FYs 1993 and 1994, require the Secretary to establish either (a) a uniform maximum interest rate and general prohibition on a borrower paying discount points, as required under current section 3703(c) of title 38, United States Code, or (b) procedures for allowing interest on VA-guaranteed loans at rates negotiated between borrowers and lenders.

2. Authorize the Secretary to change between uniform maximum rates and negotiated rates at any time.

3. (a) Provide that, if the Secretary allows negotiated interest rates, the Secretary shall allow a borrower to pay reasonable discount points on the loan, as negotiated between the borrower, the seller, and the lender, but (b) prohibit the discount points from being financed as part of the VA-guaranteed loan.

4. Require the Secretary to notify the Committees on Veterans' Affairs within 10 days after exercising the authority to provide for negotiated rates and discount points or returning to a uniform maximum rate and provide with that notification an explanation of the reasons for the change in policy.

5. Require the Secretary to report to the Committee on Veterans' Affairs, no later than March 1, 1994, on whether the Secretary has implemented negotiated interest rates and discount points under the authority of this legislation and, if so, the effects of this policy on borrowers' ability to obtain VA-guaranteed loans and on the interest rates at which borrowers were able to obtain the loans.

EXTENSION OF ENHANCED LOAN ASSET SALE AUTHORITY

Extend from December 31, 1992, to December 31, 1995, the expiration date of section 3720(h) of title 38, United States Code, which authorizes VA to provide a full-faith-and-credit government guaranty on VA securities backed by VA vendee loans.

By Mr. CRANSTON (by request):

S. 3109. A bill to amend title 38, United States Code, to authorize the creation of a Persian Gulf Registry Program; to the Committee on Veterans' Affairs.

PERSIAN GULF REGISTRY ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 3109, the proposed Persian Gulf Registry Act. The Secretary of Veterans Affairs submitted this legislation by letter dated July 14, 1992, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with the transmittal letter and enclosed section-by-section analysis.

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

SECRETARY OF VETERANS AFFAIRS,
Washington, DC., July 14, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to authorize the creation of a Persian Gulf Registry Program." We request that it be referred to the appropriate committee for prompt consideration and enactment.

Between August 2, 1991, and the present, well over a half-million American men and women served in the Persian Gulf area during Operation Desert Shield, Operation Desert Storm, and the aftermath of those hostilities. Concern has been expressed in many quarters that those men and women may have been exposed to environmental risks and hazards which could result in the onset of various diseases or disabilities. To allay these concerns, and to provide a body of baseline health-care data about Persian Gulf veterans, this draft bill would establish a Persian Gulf veteran health care registry.

To establish the registry, the draft bill would authorize the VA to conduct a comprehensive mental and physical examination, including laboratory testing, on any Persian Gulf veteran who requests such an examination. Following the exam, VA health-care personnel would discuss the results with the veteran, and make recommendations regarding the need for further care if the exam shows the presence of a disease or disability. The bill would also authorize additional examination and testing at a later date if that was deemed necessary. For example, if a VA researcher were attempting to study a group of veterans over a period of time, examinations could be conducted on volunteers at regular intervals. Information obtained from the examinations would be retained in a computerized registry.

In addition to authorizing conduct of examinations, the bill would authorize the Secretary to undertake outreach efforts to inform Persian Gulf veterans of the opportunity to participate in the registry. Veterans participating in the registry would receive the initial examination, and any subsequent examinations, without charge. However, for those individuals who are on active duty in the Armed Forces at the time they are examined, the Department of Defense would be responsible for reimbursing VA for the expense of the exam.

It is only in recent years that we have learned about the latent heath effect resulting from wartime experiences, and from the environmental hazards which service persons are exposed to during conflict. Years passed after the Vietnam War before questions were raised regarding the effects of exposure to Agent Orange and other environmental hazards during that conflict. Similarly, post-traumatic stress disorder did not become officially accepted as a disability until years after the end of the Vietnam conflict. Also, service persons who witnessed nuclear weapons testing were for many years unaware of the potential problems associated with exposure to ionizing radiation.

At this time, there is no evidence that large numbers of Persian Gulf veterans are experiencing adverse health problems as a result of their service in the Middle East. However, there have been numerous anecdotal reports of problems, and the VA and Department of Defense have learned that some veterans incurred the parasitic disease known as leishmaniasis while serving in the Gulf area. A registry of the type this bill would authorize could alleviate veteran's fears, and provide a valuable source of information for learning more about diseases and disabilities as yet unknown which may arise as a result of service in the Gulf.

VA estimates that enactment of this draft bill would result in costs of $1.05 million in Fiscal Year 1993, and $3.85 million over five fiscal years.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours.

EDWARD J. DERWINSKI.

S. 3109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. This Act may be cited as the "Persian Gulf Registry Act."

SEC. 3(a). Chapter 17 is amended by inserting after section 1724 the following new section:

"§ 1725. Persian Gulf Registry Program

"(a) The Secretary shall establish a Persian Gulf Registry Program to examine and determine the current health status of veterans who served in the Armed Forces in Southwest Asia during the Persian Gulf War, and to identify possible disabilities which may result from such service.

"(b) Individuals eligible to participate in the program authorized by subsection (a) are veterans who served on active duty in the Armed Forces in the Persian Gulf area (as determined by the Secretary) during the period beginning on August 2, 1990, and ending on the date that the President proclaims as the end of the Persian Gulf War.

"(c) To carry out the purposes of subsection (a), the Secretary:

"(1) May provide a comprehensive mental and physical examination of individuals eligible under subsection (b), and subsequent mental and physical examinations if determined necessary by a VA physician or other VA health care official;

"(2) May provide follow-up consultation with any individual who received an examination under paragraph (1) to explain the results of the examination; and

"(3) May undertake outreach efforts to further the purposes of the program.

"(d) Nothing in this section shall be construed as authorizing the Secretary to provide individuals participating in the registry with hospital or nursing home care, or outpatient medical services for the treatment of diseases or disabilities identified in an examination authorized by subsection (c).

"(e) Application for an examination under subsection (c) shall not be construed as an application for any other benefit under this title.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 224 the following new item:

"1725. Persian Gulf Registry Program.".

SECTION-BY-SECTION ANALYSIS OF PROPOSED BILL

Section 2 of the draft bill cites the Act as the "Persian Gulf Registry Act."

Section 3(a) of the draft bill would add a new section 1725 to chapter 17, of title 38, titled "Persian Gulf Registry Program."

Subsection (a) of the new section 1725 would authorize the Persian Gulf Registry Program and state that its purpose is to examine veterans who served in the Persian Gulf area to determine their current health status, and to identify disabilities which may have resulted from such service.

Subsection (b) of the new section 1725 would state that those eligible to participate in the Registry Program are veterans who served on active duty in the Armed Forces in the Persian Gulf area between August 2, 1990, and the date that the President proclaims as the end of the Persian Gulf War. The bill provides that the Secretary shall determine what constitutes the "Persian Gulf area, which would likely include Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, Yemen, and waters of the Persian Gulf, Arabian Sea, Red Sea, and the Gulfs of Aden and Oman.

Subsection (c) of the new section 1725 would authorize the Secretary to provide those eligible for the program with a comprehensive mental and physical examination, and subsequent follow-up examinations if needed. It also would authorize follow-up consultations to explain the results of the examination, and it would authorize VA to undertake outreach to veterans eligible to participate in the program.

Subsection (d) of the new section 1725 would state that the section does not authorize VA to provide health care benefits to veterans for the treatment of diseases or disabilities identified on examinations conducted as part of the Registry Program. To receive care, for such diseases or disabilities, veterans must be eligible for care under other sections of title 38 which authorize VA to provide care and treatment.

Subsection (e) of the new section 1725 would clarify that application for an examination under subsection (c) does not constitute application for any other benefits under title 38, United States Code.

Section 3(b) of the draft bill would amend the table of sections in chapter 17 of title 38 to add the new section 1725.

By Mr. LIEBERMAN (for himself, Mr. KASTEN, Mr. BRYAN, and Mr. MACK):

S. 3111. A bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investment; to the Committee on Finance.

ENTERPRISE ZONE—JOBS CREATION ACT OF 1992

Mr. LIEBERMAN. Mr. President, I rise today to introduce the Enterprise Zone—Job Creation Act of 1992. I am pleased to be joined in this effort by Senators KASTEN, BRYAN, and MACK.

Mr. President, if there is any good news—or silver lining—to bring from the recent riots in Los Angeles, they have focused this administration and this Congress on the desperate conditions which exist in many of America's inner cities—the urban decline, the crime, the poverty, the drugs, the unemployment, and the homelessness have gone untreated for far too long.

As we attempt to craft a solution to the economic problems faced in America's inner cities I believe it is necessary to first identify some of the causes. They are really no great mystery. Manufacturing and industry, which used to be the centerpiece of economic activity and employment in our inner cities, have largely disappeared. With the loss of manufacturing went—in this order—good jobs, wholesale trade, retail businesses, and a large source of local tax revenues. At the same time we saw a rise in poverty, crime, drug use, homelessness, and illiteracy. With a shrinking tax base, cities needed to provide more services with less revenue. As a result, cities were forced to raise revenue from sources such as residential property taxes, which added to the outward migration of many middle-class residents and homeowners. Finally, infrastructure continued to decline, and crime rates rose, making cities even less attractive to businesses and residents.

In many regards, the Federal Government has ignored this cycle of decay for most of the decade of the 1980's. Indeed what happened in Los Angeles is a symptom of that inaction. Mr. President, I believe that enterprise zones offer us an opportunity to break this cycle.

At the State level, 36 States plus the District of Columbia have adopted enterprise zone programs. I am proud to say that the State of Connecticut led the Nation in establishing enterprise zones in 1982, offering a wide range of State and local incentives, as well as administrative support to help develop distressed urban areas. We have now had more than 10 years worth of experience with this program and we know they work. In total, State enterprise zones have created more than 250,000 jobs and have attracted more than $28 billion in capital investments. This has all been obtained without Federal incentives, which are critical to the maximum possible enterprise zone success. It is true that some zones have not been as effective as others, but overall there is a strong pattern of success. In general, the State experience suggests that there is a strong correlation between the strength of the incentives and the success of the zone.

Among others, enterprise zones have been endorsed by the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

The State experience provides evidence that, if properly designed, enterprise zones will help convince businesses to build and grow in poor neighborhoods. They will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals. They will create jobs and stimulate entrepreneurship. Perhaps most importantly they will help restore the tax base to communities that have been forced to provide increasing social services with decreasing sources of revenue.

Mr. President, I believe the State experience has taught us how to design an effective enterprise zone program.

First, in my opinion, the objective of the enterprise zone program is to use tax incentive—and other forms of public policy—to direct investment and employment opportunities to distressed urban and rural areas that would otherwise not occur. The increased investment and employment, spurred by the package of incentives should promote the revitalization, over time, of these distressed areas. Therefore in order for the program to achieve its desired results, the package of incentives, including State and local incentives, must be of a strong enough and practical enough nature to attract the necessary business and investment activity. The package of incentives must also reduce both labor and capital costs to a sufficient level that a firm would be willing to forgo other factors that impact location decisions including access to markets, quality infrastructure, efficient transportation, a skilled labor force, quality of life, and security.

There must be a Federal, State, and local partnership. It is clear that no one level of government can provide the incentives necessary to be effective. Rather, the three levels of government should strive to provide complementary incentives. The goal should be the net effect of the entire package, not of the individual incentives.

There should be a process for maximizing State and local nonfinancial incentives. The best way to achieve this would be through a competitive designation process where States and localities compete for designation of the basis of their contribution to the package, taking into account fiscal ability. This would have the result of creating the strongest possible package of incentives.

The program must focus on newer and smaller businesses. Small businesses have been and continue to be the primary source of job creation and economic growth in this country. They are more agile and more likely to respond to well-crafted incentives. It is also clear that smokestack chasing—the process of using incentives to encourage major employers to relocate into enterprise zones—is indeed a zero sum game.

Capital incentives must be a component of any program and should be tar-

geted towards small businesses. They should encourage equity over debt. And, they should be focused on seed capital and cash flow—two of the most common barriers to small business creation. Labor incentives alone will not be sufficient to attract business investment.

The program must focus on providing jobs and opportunities for zone residents and economically disadvantaged individuals. Many opponents of enterprise zones also argue that firms are not likely to hire residents of impoverished zones. There are ways to target the tax incentives to encourage resident hiring. I believe any enterprise zone proposal must include wage credits to encourage the hiring of economically disadvantaged individuals and targeted programs for job training.

Finally, this program can not be viewed in isolation. It must be part of a larger economic development and social strategy including job training, education, health care, housing, and transportation.

In summary, Mr. President, enterprise zones are designed to directly counter the most important cause of urban decline—namely the reduction of business activity, and therefore, investment and jobs.

Mr. President, last night the Senate Finance Committee under the able leadership of Senator BENTSEN marked up an enterprise zone initiative. The initiative provides $2.5 billion worth of incentives to 25 urban and rural communities around the country. Assuming equal distribution of the incentives, this proposal provides $100 million worth of tax benefits to each enterprise zone. No one can argue that these enterprise zones will not be successful.

Chairman BENTSEN has a mix of important and valuable incentives in his bill. On the capital side, I believe the expensing provisions are particularly significant. The chairman has been an important proponent of the enterprise zone concept; his recent hearings on enterprise zones were an important step in advancing this concept.

I do note, Mr. President, that there are some areas of the Finance bill that we should continue to consider. And I introduce this legislation in the spirit of furthering this dialog.

For example, under the Finance proposal my State, which has 3 of the 10 poorest cities in the country, and has had a number of successful and proven enterprise zones for a decade, might, at very best, qualify for 1 of the 15 Federal urban enterprise zones. And we would have to compete for that zone among at least 1,000 applications. Other States have the same problem. The legislation I am introducing today says that for the same $2.5 billion we can reach a significantly larger number of communities. How do we accomplish this task? Simply, we designate more smaller zones rather than fewer large zones.

Let me explain: The bill we are introducing focuses the enterprise zone size on smaller, identifiable geographic areas, based on census tract data, that suffer most from poverty and that are most in need of revitalization. By focusing on smaller segments of urban areas and population segments with the greatest poverty, the zones are better targeted, I believe, to where the need is greatest. And a larger number of zones can be reached, since business activity levels are most affected by area and population size.

Mr. President, it is time to do something substantial on a national scale about urban decay and chronic unemployment. Unemployment and decay that not only encompasses whole sections of every one of our inner cities but also, in too many cases, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, whether they are in the South Bronx, East St. Louis, New Orleans, Chicago, Bridgeport, or Watts are in need of our help and they all deserve our help. This proposal provides such help in a long term, meaningful way.

The Finance Committee proposal is a very important step forward. It means that we are now in the posture of not fighting for the concept of enterprise zones but refining the best possible approach. I have joined by colleagues in introducing this legislation in an effort to encourage this process and look forward to continuing to work with Chairman BENTSEN.

To conclude, Mr. President, it is clear that enterprise zones are not the whole cure for the social and economic ills plaguing our inner cites. We must provide access to education, break the cycle of welfare, supply housing for the homeless, and rid our cities of crime and drugs. But, Mr. President, as we develop a longer term response to the tragedy in Los Angeles, we must recognize that any response that does not include a mechanism to attract jobs, businesses, and investment back into our inner cities is simply a response destined for failure.

Mr. KASTEN. Mr. President, Today I join with Senator LIEBERMAN in introducing an enterprise zone proposal that responds aggressively to the economic crisis in America's inner-cities and rural towns. The Lieberman-Kasten proposal will empower those who are still living without hope. This proposal is in stark contrast to either the watered-down version that has passed the House of Representatives or the version that is likely to be approved by the Senate Finance Committee. The Senate Finance Committee version is of particular concern since it may contain as few as 25 enterprise zones for the entire Nation—15 urban, 8 rural, and 2 on Indian reservations. This is not a serious response to the urban crisis in our cities. And while the House-passed version contains 50 zones, there is certainly room for improvement in that package.

The crisis in Los Angeles showed us that this is not a time for timid and half-hearted proposals. Our enterprise zone proposal provides real tax incentives to promote entrepreneurship, job creation, and economic empowerment. Most important, our bill provides up to 300 enterprise zones for roughly the same $2.5 billion cost as the Ways and Means and Finance Committee bills.

Every city that meets the criteria in the Lieberman-Kasten proposal will be able to have an enterprise zone within the tax expenditure cap. Our proposal permits many more zones than H.R. 11 or the Finance Committee draft because it creates a large number of small zones—the typical zone has a population of 12,000, compared to 43,000 in H.R. 11—and because the tax incentives selected cost the Treasury a small amount in the initial years but provide a substantial long-term payoff for successful zone investors, businesses, and employees.

The key incentive in the Lieberman-Kasten proposal is a zero capital gains rate on investment in a zone business. The capital gain is not subject to the alternative minimum tax, and a capital loss can be deducted against ordinary income. This is in sharp contrast to the complete absence of a capital gains cut in the Finance Committee draft, and the 50 percent exclusion in the House bill for assets held over 5 years.

Only when businesses are growing and creating new jobs will there be any capital gains tax component of the Lieberman-Kasten proposal. Investors will benefit only when the zones are successful, only when there is business expansion and job creation will there be any tax benefit provided. Any cost from the zero capital gains provision that may be shown under static revenue models is clearly offset by the successful businesses that there will be paying taxes, and the individuals working in the new jobs who will be paying income and payroll taxes.

The Lieberman-Kasten proposal provides a wage incentive that goes directly to the worker, in the form of a refundable tax credit, similar to the earned income tax credit. The credit would be available to enterprise zone workers who are not currently eligible for the EITC—single, predominantly young workers. This contrasts with H.R. 11 and the Finance Committee proposal which provides the tax credit to the employer.

H.R. 11 also creates a zone czar for each enterprise zone. This person is designated to select the companies that will be eligible to have its investors qualify for stock expensing. The Lieberman-Kasten proposal contains no zone czar. Under our proposal indi-

vidual entrepreneurs, investors, and consumers will decide who will succeed and who will fail.

Additional incentives in our proposal include an increase in the section 179 small business capital expensing provision—boosting this from $10,000 to $50,000. And businesses that prefer can use a capital recovery schedule that indexes depreciation to provide present-value equivalent of expensing for equipment and machinery purchases. This is referred to as the neutral cost recovery system or NCRS.

Tax exempt financing is available for zone businesses under the exempt facilities rules and volume cap, up to $5 million per business. In addition, as an alternative to the zero capital gains tax rate, an investor may choose to expense the purchase of stock in an enterprise zone business, up to $20,000 per year, with a $100,000 lifetime cap.

The Lieberman-Kasten proposal provides meaningful tax incentives for entrepreneurs and small business owners to create jobs. This bill will help bring the unemployed into the economic mainstream and give them a boost up the economic ladder. This bill represents the aggressive and bold response that is warranted by the lack of economic opportunity in America's inner cities and depressed rural areas. I ask unanimous consent that the text of the bill and accompanying explanatory documents be placed in the RECORD at the end of my remarks.

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

ENTERPRISE ZONE COMMUNITIES UNDER THE LIEBERMAN/KASTEN PROPOSAL

This is a list of communities that would qualify to have enterprise zones, under the Lieberman/Kasten Senate proposal. Each zone consists of one or more Census tracts. Most zones are built around tracts with a 50 percent poverty rate, 10 percent unemployment, and 10 percent of population receiving welfare. Some city zones have a 35 percent poverty rate, 10 percent unemployment, and 30 percent of population receiving welfare. Some rural zones are designated based on high rate of population loss (at least 10%) in states where no rural areas have a 50 percent poverty rate.

There are over 200 cities that would qualify to have an enterprise zone. There are over 100 rural counties that would qualify to have an enterprise zone.

ALABAMA

Cities: Anniston, Bessemer, Birmingham, Florence, Huntsville, Mobile, Montgomery, Phenix City, Tuscaloosa.

Counties: Dallas (Selma), Escambia, Greene, Lowndes, Perry, Sumter, Talladega, Wilcox.

ALASKA

Census Areas: Dillingham.

ARIZONA

Cities: Phoenix, Tucson.

Counties: Apache, Cochise, Coconino, Gila, Graham, Navajo, Pinal.

ARKANSAS

Cities: Fort Smith, Little Rock, North Little Rock, Pine Bluff, Texarkana, West Memphis.

Counties: Chicot, Desha, Lee, Phillips.

CALIFORNIA

Cities: Bakersfield, Chico, Compton, East Los Angeles, Florence-Graham, Fresno, Long Beach, Linda, Los Angeles, Merced, Modesto, Napa, Oakland, Oroville, Porterville, Richmond, Sacramento, San Bernardino, San Diego, San Francisco, Stockton, Visalia, Westmont, Willowbrook.

Counties: Humboldt.

COLORADO

Cities: Denver.

Counties: Bent.

CONNECTICUT

Cities: Bridgeport, Hartford, New Britain, New Haven, New London.

Counties: Windham.

DELAWARE

Cities: Wilmington.

Counties: Kent.

DISTRICT OF COLUMBIA

Cities: Washington, D.C.

FLORIDA

Cities: Cocoa, Daytona Beach, Fort Lauderdale, Goulds, Jacksonville, Miami, Orlando, Tallahassee, Tampa.

Counties: Putnam.

GEORGIA

Cities: Albany, Atlanta, Athens, Augusta, Columbus, Macon, Savannah.

Counties: Laurens, Ware.

HAWAII

Cities: Honolulu.

Counties: Hawaii.

IDAHO

Counties: Shoshone.

ILLINOIS

Cities: Chicago, Chicago Heights, Decatur, East St. Louis, Kankakee, Peoria, Rockford, Rock Island, Springfield.

Counties: Jackson, Jefferson.

INDIANA

Cities: Evansville, Gary, Hammond, Indianapolis.

Counties: Wayne (Richmond).

IOWA

Cities: Davenport, Waterloo.

Counties: Decatur.

KANSAS

Cities: Kansas City, Kansas; Wichita.

Counties: Osborne.

KENTUCKY

Cities: Lexington, Louisville, Newport.

Counties: Bell, Breathitt, Clay, Knox, Lawrence, Magoffin, McCracken, McCreary, Morgan, Owsley, Warren, Whitley, Wolfe.

LOUISIANA

Cities: Alexandria, Baton Rouge, Houma, Lafayette, Lake Charles, Marrero, Monroe, New Orleans, Shreveport.

Parishes: Concordia, East Carroll, Evangeline, Lincoln, Madison, Natchitoches, Pointe Coupee, St. Landry, St. Mary, Tangipahoa, Tensas, Vermillion.

MAINE

Cities: Portland.

Counties: Penobscot.

MARYLAND

Cities: Baltimore.

Counties: Wicomico.

MASSACHUSETTS

Cities: Boston, Holyoke, Lawrence, Lowell, New Bedford, Springfield, Worcester.

Counties: Berkshire.

MICHIGAN

Cities: Ann Arbor, Battle Creek, Beecher, Benton Harbor, Detroit, Flint, Grand Rapids, Highland Park, Jackson, Kalamazoo, Lansing, Muskegon, Muskegon Heights, Pontiac, Saginaw, Taylor.

Counties: Luce.

MINNESOTA

Cities: Minneapolis, St. Paul.

Counties: Traverse.

MISSISSIPPI

Cities: Biloxi, Jackson.

Counties: Adams, Bolivar, Coahoma (Clarksdale), Forrest (Hattiesburg), Holmes, Humphreys, Jefferson, Leflore, Sunflower, Tunica, Washington (Greenville), Yazoo.

MISSOURI

Cities: Kansas City, Springfield, St. Louis.

Counties: Mercer.

MONTANA

Counties: Big Horn, Glacier.

NEBRASKA

Cities: Lincoln, Omaha.

Counties: Keya Paha.

NEVADA

Cities: Las Vegas, North Las Vegas.

Counties: Elko.

NEW HAMPSHIRE

Counties: Grafton.

NEW JERSEY

Cities: Bridgeton, Camden, Elizabeth, Jersey City, Newark, Paterson, Trenton.

NEW MEXICO

Cities: Albuquerque.

Counties: Cibola, Lea, McKinley, Sandoval, San Juan.

NEW YORK

Cities: Binghamton, Buffalo, Elmira, New York City, Niagara Falls, Rochester, Syracuse, Utica, Yonkers.

Counties: Clinton.

NORTH CAROLINA

Cities: Charlotte, Durham, Fayetteville, Raleigh, Wilmington, Winston-Salem.

Counties: Lenoir, Pasquotank, Wilson.

NORTH DAKOTA

Counties: Rolette.

OHIO

Cities: Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Hamilton, Lima, Lorain, Toledo, Warren, Youngstown.

Counties: Scioto (Portsmouth).

OKLAHOMA

Cities: Lawton, Oklahoma City, Tulsa.

Counties: McCurtain.

OREGON

Cities: Portland.

Counties: Harney.

PENNSYLVANIA

Cities: Bethlehem, Chester, Erie, Harrisburg, Lancaster, Philadelphia, Pittsburgh, Reading, Williamsport.

Counties: Indiana.

RHODE ISLAND

Cities: Providence.

Counties: Newport.

SOUTH CAROLINA

Cities: Charleston, Columbia, Florence, Spartanburg.

Counties: Orangeburg.

SOUTH DAKOTA

Counties: Jackson, Shannon, Todd, Ziebach.

TENNESSEE

Cities: Chattanooga, Jackson, Knoxville, Memphis, Nashville.

Counties: Crockett.

TEXAS

Cities: Abilene, Amarillo, Austin, Beaumont, Brownsville, Corpus Christi, Dallas, Edinburg, El Paso, Fort Worth, Galveston, Harlingen, Houston, Laredo, Lubbock, McAllen, Mercedes, Mission, Pharr, San Angelo, San Antonio, Texarkana, Tyler, Victoria, Waco, Weslaco, Wichita Falls.

Counties: Dimmit, Frio, Maverick, Presidio, Starr, Val Verde, Willacy, Zavala.

UTAH

Cities: Clearfield, Salt Lake City.

Counties: San Juan.

VERMONT

Counties: Orleans.

VIRGINIA

Cities: Newport News, Norfolk, Portsmouth, Richmond.

Counties: Bath.

WASHINGTON

Cities: Seattle, Spokane, Tacoma, Yakima.

Counties: Whitman.

WEST VIRGINIA

Cities: Charleston, Huntington.

Counties: McDowell.

WISCONSIN

Cities: Eau Claire, Milwaukee, Racine.

Counties: Menominee.

WYOMING

Counties: Fremont.

Provisions:

1. Zero capital gains rate on any investment in an enterprise zone business. The capital gain is not subject to the alternative minimum tax. Also, a capital loss can be deducted against ordinary income.

2. All communities—city neighborhoods and rural areas—can have enterprise zones if they meet the objective criteria specified in the bill. (The main criterion is a 50% poverty rate; in some states, rural population loss is also a basis for being an enterprise zone.) About 300 communities (200 urban, 100 rural) will be eligible to have enterprise zones, and will be able to.

3. Total cost in "tax expenditures" is $2.5 billion over 5 years. This will be capped; if the cost as calculated by Treasury reaches $2.5 billion, no more zones will be designated.

4. A wage credit for employees of zone businesses who aren't now eligible for the Earned Income Tax Credit. Each employee without a dependent would receive a 5% credit, up to a total of $900. Like the EITC, the wage credit is refundable and goes to the employee.

5. Capital equipment purchased by small businesses in enterprise zones can be expensed up to $50,000 per year, instead of $10,000 as is now permitted under Section 179.

6. Alternatively, a business can use a different depreciation schedule that allows the equivalent of expensing over period of years (the "neutral cost recovery system").

7. As an alternative to the zero capital gains tax rate, an investor may choose to expense the purchase of stock in an enterprise zone business, up to $20,000 per year, with a $100,000 lifetime cap.

8. A zone resident or worker who invests in a zone business can receive both the stock expensing and the zero capital gains rate.

9. Tax exempt financing is available for zone businesses under the exempt facilities rules and volume cap, up to $5 million per business. A broader range of zone businesses would be eligible for tax exempt financing than under the exempt facilities rules applying to the nation as a whole.

10. A qualified enterprise zone business must have one-third of its employees as zone residents, and must do most of its business within the zone.

SUMMARY OF ENTERPRISE ZONE PROPOSALS

Summary	Lieberman/Kasten proposal (supported by administration)	House passed H.R. 11	Senator Bentsen's mark (Some provisions not yet fully specified)
Number of zones	Approximately 300 zones: 200 cities/100 rural communities, including Indian reservations.	50 zones: 25 cities/25 rural communities, including at least one Indian reservation.	25 zones: 15 cities/8 rural communities/2 Indian reservations.
Selection process	All urban and rural areas meeting objective criteria are eligible. Minimum local commitment (course of action) required.	Intense competition among eligible zones, based on local commitments and conditions in zones. Course of action is part of competition.	Very intense competition among eligible zones.
Capital gains tax	Zero capital gains tax on tangible and intangible zone property and investments.	50 percent gains exclusion; defers capital gains tax on tangible property reinvested.	No relief from capital gains tax.
Stock expensing	Non-zone investors may elect to expense $20,000 worth of stock in zone businesses ($100,000 lifetime) instead of zero capital gains. Zone residents and workers get both.	Investors can expense $25,000 ($250,000 lifetime).	
Wage incentives	Refundable wage credit worth up to $900 extended to unemployed youth and other low-income persons not now receiving earned income tax credit: provided to low-income employees.	Wage credit tax break for employers equal to $3,000 per zone resident employee. Provided to employer for each employee regardless of income..	Wage credit provided to employer for each employee who is a zone resident, extension and expansion of the targeted jobs tax credit, and credit to employers for training and apprenticeship programs.
Plant and equipment expensing.	Expensing of plant and equipment in the form of a neutral cost recovery system. Small businesses can elect immediate expensing of up to $50,000 of equipment annually (current limit is $10,000).	Small businesses can expense up to $20,000 of equipment annually.	Accelerated depreciation for large businesses and increased expensing of equipment for small businesses.
Zone czar	None	50 local government officials certifying up to $30 million per zone for stock expensing.	None.
Tax-exempt financing for zone businesses.	Available under exempt facilities volume cap. Wider range of businesses eligible than under current rules.	Same. Only 50 percent charged against volume cap.	Available to small businesses.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3113. A bill to establish a Quinebaug and Shetucket Rivers Valley National Heritage Corridor; to the Committee on Energy and Natural Resources.

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT OF 1992

• Mr. DODD. Mr. President, I rise today to introduce legislation to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor. I am pleased to be joined in this effort by my colleague from Connecticut, Mr. LIEBERMAN. The legislation we introduce today is companion legislation to H.R. 5423, legislation introduced by Congressman SAM GEJDENSON to protect and preserve this beautiful and historic region of Connecticut.

Few could make a case that Connecticut, as a State, has been over-

looked during the past several years—between the fiscal crises in our State's cities, our new State income tax and the *Seawolf* submarine, we have not lacked for national press.

But there is another side to Connecticut, beyond the Defense industry and beyond the common view of Connecticut as an extended suburb of New York City.

The Quinebaug and Shetucket Rivers Valley extends the length of southeastern Connecticut. The Quinebaug and Shetucket Rivers flow along a valley that is beyond compare in beauty and history in our region. The valley, which was settled by Indians during precolonial times, is now filled with farms and beautiful small towns, founded during the colonial period, touched by the Revolution, and transformed by the industrial revolution.

Mr. President, this area is unmatched in its natural and cultural resources. Looking at any one aspect of the valley—just its beauty, just its historic mills, or just its archaeological remains—one might conclude that other areas are more nationally significant. But when considering this region as a whole, the Quinebaug and Shetucket Rivers Valley is unsurpassed in its potential.

This region offers beautiful landscapes for trails, rivers for canoeing and fishing, historic mills for learning and exploration, the birthplace of Revolutionary War hero, Nathan Hale, and the Prudence Crandall School, established as the first teacher training school for black women in 1833. The valley is also the site of numerous Native American and precolonial archaeological sites and was the site of the famous battle between the Mohegan and the Narragansett Indians, commemorated in James Fenimore Cooper's book, "The Last of the Mohicans."

While not lacking in potential, this region is lacking in parklands. The northeast averages nearly 300 acres of public recreation land for each thousand residents; Connecticut has less than a hundred acres per thousand residents. Connecticut, with one national park, Weir Farm which totals 2 acres, ranks last in the Nation in Federal land set aside for national parks, forests, recreation, or wildlife areas.

And clearly there is demand for such parklands. Congressman GEJDENSON has held field hearings providing documentary evidence of local concerns about preserving open spaces and unique resources. Connecticut's Governor has made the establishment of greenways in our State one of his top environmental priorities. But beyond local needs, the Quinebaug Shetucket Rivers valley falls within easy driving distance of some of the northeast's largest cities—New York, Boston, Hartford, Bridgeport, and Providence.

The Quinebaug Shetucket Rivers valley has the potential to meet these needs. However, its natural and cultural resources lack a cohesive focus—the focus a national heritage corridor designation would give the region.

The national heritage corridor designation, while unfamiliar to many, is not a new concept for the Park Service. There are currently national heritage corridors in Pennsylvania, along the Lehigh and Delaware Canal, in Michigan and Illinois along their historic canal, and in the Blackstone River valley. Under this program, communities and the State are provided with a management framework for the establishment of the corridor. The corridor concept has been very successful as it provides communities with the flexibility to tailor their needs to those of the corridor.

The heritage corridor designation is not only innovative, it is also cost-effective. It does not rely on the wholesale purchase of privately owned or State-held land—instead it establishes a Federal-State-local and private partnership to work cooperatively to find ways to protect the area's important resources. These groups can work together to develop land management plans to preserve the unique resources of the region, enhance recreational potential and develop a cohesive plan for land use ensuring preservation as well as development.

It is a concept of great appeal in the Northeast. My State and others in the region are densely populated. It would be difficult, perhaps impossible to establish a traditional national park within the bounds of my State. However, there is widespread support for the idea of the Quinebaug Shetucket Rivers Valley National Heritage Corridor.

Many in the community have joined together in an advisory committee and have worked for 3 years exploring this idea. They have held corridor walks, talked to local, State, and Federal officials, and met with various members of their communities to request their input. Normally, one would expect that the enthusiasm for such a proposal would die down and perhaps there would be some opposition, but thus far the corridor idea has only become more popular. Within its flexible framework and with the assistance of the Department of the Interior, the towns and communities are confident that they could develop a plan to preserve and enhance the important natural and cultural resources of the Quinebaug Shetucket Rivers valley.

Mr. President, a unique crosssection of the historical and cultural development of our Nation exists along the Quinebaug and Shetucket Rivers in Connecticut. This is not a history I am willing to see overrun by development or deteriorate through lack of care. This legislation will ensure that it is protected, that access to the rivers are preserved, and that our children and grandchildren will enjoy this special part of our Nation. I urge my colleagues to join me in support of this important legislation.●

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1578, supra.

S. 2236

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2236, a bill to amend the Voting Rights Act of 1965 to modify and extend the bilingual voting provisions of the Act.

S. 2244

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2373

At the request of Mr. BOREN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2373, a bill to amend the Job Training Partnership Act to establish a community works progress program, and a national youth community corps program, and for other programs.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Montana [Mr. BAUCUS] 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. 2526

At the request of Mr. PACKWOOD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2526, a bill to amend the Congressional Budget Act of 1974 to provide for truth in budgeting with respect to intragovernmental transactions involving trust funds.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Oklahoma

[Mr. BOREN] 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. 2682

At the request of Mr. WARNER, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors 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. 2707

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2773

At the request of Mr. DANFORTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2773, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring tax provisions, and for other purposes.

S. 2808

At the request of Mr. MITCHELL, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2808, a bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1993 provided certain conditions are met.

S. 2814

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2814, a bill to ensure proper and full implementation by the Department of Health and Human Services of Medicaid coverage for certain low-income Medicare beneficiaries.

S. 2835

At the request of Mr. HATCH, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Vermont [Mr. JEFFORDS], the Senator from Indiana [Mr. COATS], the Senator from Idaho [Mr. SYMMS], the Senator from Washington [Mr. GORTON], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2835, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements.

S. 2873

At the request of Mr. BREAUX, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2873, a bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

S. 2942

At the request of Mr. HATCH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2942, a bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes.

S. 2973

At the request of Mr. CRANSTON, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 2973, a bill to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs' programs that provide such care and services, and for other purposes.

S. 2977

At the request of Mr. DASCHLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2977, a bill to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of 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.

SENATE JOINT RESOLUTION 265

At the request of Mr. SEYMOUR, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to designate October 9, 1992, as "National School Celebration of the Centennial of the Pledge of Allegiance and the Quincentennial of the Discovery of America by Columbus Day."

SENATE JOINT RESOLUTION 315

At the request of Mr. SEYMOUR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 315, a joint resolution to designate September 16, 1992, as "National Occupational Therapy Day."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Rhode Island [Mr. CHAFEE] 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 RESOLUTION 301

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Vermont [Mr. LEAHY], the Senator from Georgia [Mr. FOWLER], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Resolution 301, a resolution relating to ongoing violence connected with apartheid in South Africa.

SENATE CONCURRENT RESOLUTION 131—RELATING TO LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

SENATE RESOLUTION 327—RELATING TO COMMITTEE STAFF LIMITATION AND TO ESTABLISH A COMMISSION TO INVESTIGATE ETHICS VIOLATIONS

Mr. BOND submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 327

Resolved,

SECTION 1. LIMIT ON NUMBER OF SENATE COMMITTEE STAFF.

(a) 103D CONGRESS.—During the 103d Congress—

(1) the number of persons employed by each committee of the Senate shall not exceed the number that is 85 percent of the number of persons employed by that committee on the date of the sine die adjournment of the 102d Congress; and

(2) the amount of funds that may be disbursed to pay compensation of the employees of each committee of the Senate in any year shall not exceed 85 percent of the amount required to be disbursed to pay one year's compensation to the employees of that committee who are employed on the date of the sine die adjournment of the 102d Congress, adjusted by such amount as is necessary to provide appropriate adjustments in employee compensation.

(b) SUBSEQUENT CONGRESSES.—During the 104th and subsequent Congresses—

(1) the number of persons employed by each committee of the Senate shall not exceed the number that is 75 percent of the number of persons employed by that committee on the date of the sine die adjournment of the 102d Congress; and

(2) the amount of funds that may be disbursed to pay compensation of the employees of each committee of the Senate in any year shall not exceed 75 percent of the amount required to be disbursed to pay one year's compensation to the employees of that committee who are employed on the date of the sine die adjournment of the 102d Congress, adjusted by such amount as is necessary to provide appropriate adjustments in employee compensation.

SEC. 2. INVESTIGATION OF ALLEGATIONS OF ETHICS VIOLATIONS.

(a) DEFINITIONS.—In this section:

"Ethics Commission" means the Independent Senate Ethics Commission established by subsection (b).

"Officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of the Office of Legislative Counsel;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

(b) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established a commission to be known as the Independent Senate Ethics Commission.

(2) MEMBERSHIP.—The Ethics Commission shall be comprised of 3 members, each of whom is a retired judge of a Federal or State court, of whom—

(A) 1 shall be appointed by the majority leader;

(B) 1 shall be appointed by the minority leader; and

(C) 1 shall be appointed jointly by the majority leader and minority leader on the recommendation of the members so appointed;

(3) TERMS.—(A) A member of the Commission shall serve a term of 3 years and may be reappointed for 2 additional terms.

(B) In the case of the death or resignation of a member of the Commission a successor shall be appointed in the same manner as the member was appointed to serve until the end of the term of that member.

(4) REMOVAL.—A member of the Commission may be removed by resolution of the Senate.

(5) DUTIES.—It shall be the duty of the Commission to—

(A) receive requests for review of an allegation described in subsection (c)(1);

(B) make such informal preliminary inquiries in response to such a request as the Commission deems to be appropriate;

(C) if, as a result of those inquiries, the Commission determines that a formal investigation is not warranted, submit a report pursuant to subsection (c)(4); and

(D) if, as a result of those inquiries, the Commission determines that a formal investigation is warranted, conduct an investigation pursuant to subsection (d).

(6) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(7) STAFF.—(A) The Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform its duties.

(B) The Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(C) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(D) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(E) Except at a time when additional personnel are needed to assist the Commission in its review of a particular request for review under subsection (c), the total number of staff personnel employed by or detailed to the Commission under this subsection shall not exceed 5.

(8) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(c) REVIEW OF ALLEGATIONS OF MISCONDUCT.—

(1) REQUEST FOR REVIEW.—Any person may present to the Commission a request to review and to consider the propriety of conducting a formal investigation of an allegation of misconduct described in subsection (e).

(2) SWORN STATEMENT.—A request for review under paragraph (1) shall be accompanied by a sworn statement, made under penalty of perjury under the laws of the United States, of facts within the personal knowledge of the person making the statement alleging improper conduct or a violation described in subsection (e).

(3) PUBLIC DISCLOSURE.—(A) The contents of a request for review and sworn statement submitted under paragraphs (1) and (2), all proceedings of the Commission, and all facts that come to the knowledge of the Commission during its inquiries shall be made available to the public except as provided in subparagraph (B).

(B) The Commission may withhold information from public disclosure if the Commission, in its sole discretion, determines that the public interest in disclosure is outweighed by—

(i) harm that may be caused to the reputation of a person; or

(ii) prejudice that may be caused to the rights of a person.

(4) DETERMINATION NOT TO CONDUCT FORMAL INVESTIGATION.—(A) If, after making preliminary inquiries, the Commission determines not to conduct a formal investigation pursuant to subsection (d), the Commission shall submit to the members of the Senate a report that—

(i) states findings of fact made as a result of the inquiries;

(ii) states any conclusions that may be drawn with respect to whether there is substantial credible evidence that improper conduct or a violation of law may have occurred; and

(iii) states its reasons for concluding that further investigation is not warranted.

(B) After submission of a report under subparagraph (A), no action may be taken in the Senate to impose a sanction on a person who was the subject of the Commission's inquiries on the basis of any conduct that was alleged in the request for review and sworn statement.

(C) If the Commission determines that any part of a sworn statement presented to it under paragraph (2) may have been a false statement made knowingly and willfully, the Commission may refer the matter to the Attorney General for prosecution.

(d) FORMAL INVESTIGATION.—

(1) IN GENERAL.—If, after making preliminary inquiries, the Commission determines that—

(A) there is substantial credible evidence that improper conduct or a violation described in subsection (e) may have occurred; and

(B) in view of the seriousness of the allegation and other relevant considerations, a full investigation of the alleged misconduct or violation is warranted,

the Commission shall conduct a formal investigation.

(2) GENERAL AUTHORITIES.—(A) In conducting a formal investigation, the Commission may—

(i) make such expenditures;

(ii) hold such hearings;

(iii) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, documents, or other records of any kind;

(iv) administer such oaths;

(v) take such testimony orally or by deposition; and

(vi) employ and fix the compensation of such counsel, investigators, technical assistants, consultants, and clerical staff,

as the Commission deems advisable.

(B) The Commission may procure the temporary services (not in excess of 1 year) or intermittent services of consultants by contract as independent contractors or by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation that may be paid to a regular employee of the Committee on Rules and Administration.

(3) USE OF SERVICES, FACILITIES, INFORMATION, AND EMPLOYEES.—(A) With the consent of the department or agency concerned, the Commission may—

(i) use the services, facilities, and information of any department or agency of the United States; and

(ii) employ on a reimbursable basis or otherwise the services of such personnel of such a department or agency as the special counsel deems advisable.

(B) With the consent of the committee, subcommittee, or office concerned, the Commission may use the services, facilities, and information of any committee, subcommittee, or office of the Senate when the Commission determines that to do so is necessary and appropriate.

(4) OPPORTUNITY TO BE HEARD.—The Commission shall provide a person that is the subject of an investigation notice of the in-

vestigation and a full opportunity to respond orally and in writing and submit evidence in response to allegations made concerning the person.

(5) SPECIAL COUNSEL.—(A) If the Commission determines that, in view of the extent or nature of allegations requiring investigation, it would be desirable to appoint counsel to assist the Commission in conducting the investigation, the Commission may appoint a special counsel for that purpose.

(B)(i) The Commission shall appoint as special counsel a person who has appropriate experience and who undertakes to conduct the investigation in a prompt, responsible, and cost-effective manner and to serve to the extent necessary to complete the investigation.

(ii) The Commission may not appoint as special counsel a person who holds any office of profit or trust under the United States.

(C) A special counsel shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(D)(i) At the time that the Commission appoints a special counsel, the Commission shall describe with specificity in the appointment the subject matter with respect to which the investigation shall be conducted.

(ii) The Commission may enlarge the subject matter with respect to which a special counsel is to conduct an investigation—

(I) at the recommendation of the special counsel, based on facts that come to the knowledge of the special counsel during an investigation; or

(II) in response to a request for review and sworn statement alleging new facts that is presented to the Commission by any person prior to the conclusion of an investigation.

(E) The Commission may delegate to a special counsel such authorities of the Commission under this section as the Commission deems necessary or appropriate to enable the special counsel to conduct an investigation.

(6) REPORT AND RECOMMENDATION.—(A) At the conclusion of an investigation, the Commission shall submit to the members of the Senate a report that—

(i) states findings of fact made in the investigation;

(ii) states any conclusions that may be drawn with respect to whether improper conduct or a violation of law has occurred; and

(iii) recommends an appropriate sanction for any improper conduct or violation of law that is found to have occurred.

(B) A sanction recommended by the Commission in a report under subparagraph (A) may include—

(i) in the case of improper conduct or a violation of law by a member of the Senate, censure, expulsion, or recommendation to the appropriate party conference regarding the member's seniority or position of responsibility; and

(ii) in the case of improper conduct or a violation of law by an officer or employee of the Senate, suspension or dismissal from employment by the Senate.

(C) At any time at which the Commission finds facts that give reason to believe that a violation of law has occurred, the Commission shall report those facts to the appropriate Federal or State law enforcement authorities.

(7) SENATE ACTION.—After a report is submitted under paragraph (6), any member of the Senate may introduce a resolution proposing that the Senate adopt the report of the Commission with or without modification and impose an appropriate sanction.

(8) PAYMENT OF EXPENSES.—Expenses of the Commission and compensation and expenses of a special counsel shall be paid out of the contingent fund of the Senate.

(e) MATTERS FOR REVIEW BY THE COMMISSION.—

(1) IN GENERAL.—Allegations of misconduct of the kinds described in paragraph (2) may be the subject of a request for review by the Commission under subsection (c)(1).

(2) KINDS OF MISCONDUCT.—An allegation of misconduct is described in this paragraph if it is an allegation of—

(A) improper conduct that may reflect upon the Senate;

(B) a violation of law;

(C) a violation of the Senate Code of Official Conduct (rules XXXIV, XXXV, XXXVII, XXXVIII, XXXIX, XL, XLI, and XLII of the Standing Rules of the Senate); or

(D) a violation of a rule or regulation of the Senate,

relating to the conduct of a person in the performance of his or her duties as a member, officer, or employee of the Senate.

(f) TECHNICAL AMENDMENT.—Senate Resolution 338, 88th Cong., 2d Sess., 100 Cong. Rec. 16939 (1964), is amended—

(1) in the first section by striking subsection (e);

(2) in section 2—

(A) in subsection (a) by striking "to—" and all that follows through the end of the subsection and inserting "to recommend to the Senate, by report or resolution, such rules or regulations as the Select Committee shall determined to be necessary or desirable to ensure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities."; and

(B) by striking subsections (b), (c), (d), (e), (f), (g), and (h) and redesignating subsection (i) as subsection (b); and

(3) in section 3 by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(The Statement of Mr. BOND relating to S. Res. 327 and S. 3099 may be found in today's RECORD under "Statements on Introduced Bills and Joint Resolutions".)

AMENDMENTS SUBMITTED

NATIONAL ENERGY EFFICIENCY ACT OF 1991

STEVENS AMENDMENT NO. 2793

Mr. WALLOP (for Mr. STEVENS) proposed an amendment to the bill (H.R. 776) to provide for improved energy efficiency, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX

Subsection (d) of 26 U.S.C. 4612 is amended by inserting the following new sentence before the last sentence of such subsection (d):

"If a taxpayer who has paid into such Trans-Alaska Pipeline Liability Fund can not use such credit on account of the operation of any provision of section 4611(f), then such credit may be taken to offset taxes otherwise due under section 11, in each year to the extent which would have been permissible had the Oil Spill Liability Trust Fund financing rate imposed by section 4611 not lapsed pursuant to 4611(f)(2) or expired pursuant to section 4611(f)(1), provided that no such credit taken under this sentence may be carried back to previous tax years."

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 2794

Mr. D'AMATO (for himself and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 776, supra, as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(1)(B), the phrase "produced in the foreign country with respect to which such order or finding applies" is deleted and the following new text is inserted in lieu thereof: "supplied by an exporter or producer in the foreign country with respect to which the order or finding applies, from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer, or from parts or components supplied by any party in any foreign country on behalf of such an exporter or producer".

SEC. . AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

In section 781(a)(2)(B), the phrase "produced in the foreign country with respect to which such order or finding described in paragraph (1) applies" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(2)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(2)(C)).

In section 781(a)(2)(C), the phrase "produced in the foreign country" is deleted and the phrase "described in subparagraph (1)(B)" is inserted in lieu thereof.

SEC. . AMENDMENT TO SECTION 781(a)(1)(B) OF THE TARIFF ACT OF 1930 (19 U.S.C. 1677j(a)(1)(B)).

The following phrase is inserted after the language of section 781(b)(1)(B)(ii): "or (iii) is supplied by the exporter or producer in any foreign country with respect to which such order or finding applies, or from suppliers that have historically supplied the parts or components to that exporter or producer,".

SHELBY (AND OTHERS) AMENDMENT NO. 2795

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT—FISCAL YEAR 1993

Mr. SHELBY (for himself, Mr. THURMOND, Mr. SEYMOUR, Mr. MCCONNELL, Mr. PRESSLER, Mr. HELMS, Mr. HOLLINGS, Mr. SYMMS, Mr. CRAIG, Mr. LOTT, Mr. HATCH, Mr. STEVENS, Mr. SMITH, and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 5517) 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; as follows:

At the appropriate place, insert the following:

SEC. ____. MANDATORY LIFE IMPRISONMENT OR DEATH PENALTY FOR MURDER IN THE DISTRICT OF COLUMBIA.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for

such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section

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929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

ADAMS AMENDMENT NO. 2796

Mr. ADAMS proposed an amendment to the bill H.R. 5517, supra, as follows:

In lieu of the matter proposed to be inserted by such amendment, insert the following:

SEC. . Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at the next general, special or primary election held at least 90 days after the enactment of this Act the following initiative.

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for

which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section

2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

ADAMS MODIFIED AMENDMENT NO. 2797

Mr. ADAMS proposed an amendment, as modified, to the bill H.R. 5517, supra, as follows:

Strike all after the first word and insert.

.——. Notwithstanding any other provision of law the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special or primary election to be held within 90 days after the enactment of this Act the following initiative—

SHORT TITLE

"Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia."

SUMMARY STATEMENT

This Initiative Measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole: *Provided*, That the legislative text of the initiative shall read as follows—

Be it enacted by the Electors of the District of Columbia, That this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in section 921).

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(A) while the public servant was engaged in the performance of his or her official duties;

"(B) because of the performance of the public servant's official duties; or

"(C) because of the public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representa-

tion. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning stated in section 513, including the District of Columbia;

"(2) 'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2), or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'robbery' means obtaining the property of another by force or threat of force;

"(5) 'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"(y) When an offense is charged under this section, the Government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder in the District of Columbia.".

McCONNELL (AND OTHERS) AMENDMENT NO. 2798

Mr. McCONNELL (for himself, Mr. NICKLES, Mr. BURNS, Mr. SMITH, Mr. McCAIN, and Mr. GORTON) proposed an amendment to the bill H.R. 5517, supra, as follows:

At the appropriate place insert:

That (a) section 2302 of title 6 of the District of Columbia Code is amended by—

(1) striking subparagraph (C) of paragraph (7); and

(2) redesignating subparagraphs (D) and (E) of paragraph (7) as subparagraphs (C) and (D), respectively.

(b) The amendments made by subsection (a) shall take effect on January 1, 1993.

LOTT (AND OTHERS) AMENDMENT NO. 2799

Mr. LOTT (for himself, Mr. COATS, Mr. SMITH, and Mr. BROWN) proposed an amendment to the bill H.R. 5517, supra, as follows:

At the appropriate place, insert the following:

"No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9-188, signed by the Mayor of the District of Columbia on April 15, 1992.".

BROWN AMENDMENT NO. 2800

Mr. BOND (for Mr. BROWN) proposed an amendment to the bill H.R. 5517, supra, as follows:

On page 37, after line 25, insert the following new section:

SEC. . (a) In the case of any applicant for assistance provided with funds appropriated under this Act, the applicant shall include the information described in section 6109 of the Internal Revenue Code of 1986.

(b) Any agency processing any application described in subsection (a) shall submit the

information provided by the applicant (including the dollar value of the United States Government assistance to the applicant) to the Internal Revenue Service.

(c) On a written request from the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, the Secretary of the Treasury shall furnish each such Office with—

(1) the dollar value of the United States Government assistance to the applicant; and

(2) any return or return information specified in the request, except any return or return information that can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

CRAIG AMENDMENT NO. 2801

Mr. BOND (for Mr. CRAIG) proposed an amendment to the bill H.R. 5517, supra, as follows:

On page 2, line 6 strike "4652" and insert in lieu thereof "4656".

BOREN AMENDMENT NO. 2802

Mr. FORD (for Mr. BOREN) proposed an amendment to the bill H.R. 5517, supra, as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—There is established an ad hoc Joint Committee on the Organization of the Congress (referred to as the "Committee") to be composed of—

(1) 12 members of the Senate—

(A) 6 to be appointed by the Majority Leader; and

(B) 6 to be appointed by the Minority Leader; and

(2) 12 members of the House of Representatives—

(A) 6 to be appointed by the Speaker; and

(B) 6 to be appointed by the Minority Leader.

(b) EX OFFICIO MEMBERS.—The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives shall be ex officio members of the Committee, to serve as voting members of the Committee. Ex officio members shall not be counted for the purpose of ascertaining the presence of a quorum of the Committee.

(c) ORGANIZATION OF COMMITTEE.—(1) A chairman from each House shall be designated from among the members of the Committee by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(2) A vice chairman from each House shall be designated from among the members of the Committee by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(3) The Committee may establish subcommittees comprised of only members from one House. A subcommittee comprised of members from one House may consider only matters related solely to that House.

(4)(A) No recommendation shall be made by the Committee except upon a majority vote of the members representing each House, respectively.

(B) Notwithstanding subparagraph (A), any recommendation with respect to the rules and procedures of one House which only affects matters related solely to that House may only be made and voted on by the members of the committee from that House, and, upon its adoption by a majority of such members, shall be considered to have been adopted by the full committee as a recommendation of the committee. Once such recommendation is adopted, the full committee may vote to make an interim or final report containing any such recommendation.

SEC. 2. STUDY OF ORGANIZATION AND OPERATION OF THE CONGRESS.

(a) IN GENERAL.—The Committee shall—

(1) make a full and complete study of the organization and operation of the Congress of the United States; and

(2) recommend improvements in such organization and operation with a view toward strengthening the effectiveness of the Congress, simplifying its operations, improving its relationships with and oversight of other branches of the United States Government, and improving the orderly consideration of legislation.

(b) FOCUS OF STUDY.—The study shall include an examination of—

(1) the organization and operation of each House of the Congress, and the structure of, and the relationships between, the various standing, special, and select committees of the Congress;

(2) the relationship between the two Houses of Congress;

(3) the relationship between the Congress and the executive branch of the Government;

(4) the resources and working tools available to the legislative branch as compared to those available to the executive branch; and

(5) the responsibilities of the leadership, their ability to fulfill those responsibilities, and how that relates to the ability of the Senate and the House of Representatives to perform their legislative functions.

SEC. 3. AUTHORITY AND EMPLOYMENT AND COMPENSATION OF STAFF.

(a) AUTHORITY OF COMMITTEE.—The Committee, or any duly authorized subcommittee thereof, may—

(1) sit and act at such places and times as the Committee, or any duly authorized subcommittee thereof, determines are appropriate during the sessions, recesses, and adjourned periods of Congress; and

(2) require the attendance of witnesses and the production of books, papers, and documents, administer oaths, take testimony, and procure printing and binding.

(b) APPOINTMENT AND COMPENSATION OF STAFF.—(1) The Committee may appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable, but shall utilize existing staff to the extent possible.

(2) The Committee may utilize such voluntary and uncompensated services as it deems necessary and may utilize the services, information, facilities, and personnel of the General Accounting Office, the Office of Technology Assessment, the Congressional Research Service of the Library of Congress, and other agencies of the legislative branch.

(3) The members and staff of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Committee, other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session.

(c) WITNESSES.—Witnesses requested to appear before the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in traveling to and from the places at which they are to appear.

(d) EXPENSES.—

(1) SENATE.—(A) The Senate members of the Committee shall submit a budget of expenses allocable to the Senate to the Committee on Rules and Administration of the Senate. The Committee may expend for expenses allocable to the Senate not to exceed $250,000 from the Contingent Fund of the Senate subject to approval by the Committee on Rules and Administration until a Committee funding resolution is approved by the Senate or, if no funding resolution is approved, until March 1, 1993.

(B) The expenses of the Committee allocable to the Senate shall be paid from the contingent fund of the Senate, upon vouchers signed by the Senate chairman.

(2) HOUSE OF REPRESENTATIVES.—Notwithstanding any law, rule, or other authority, there shall be paid from the contingent fund of the House of Representatives such sums as may be necessary for one-half of the expenses of the committee, with not more than $250,000 to be paid with respect to the second session of the One Hundred Second Congress. Such payments shall be made on vouchers signed by the House of Representatives cochairman of the committee and approved by the Committee on House Administration of the House of Representatives. Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Administration of the House of Representatives.

SEC. 4. COMMITTEE REPORT.

(a) REPORT.—The Committee shall report to the Senate and the House of Representatives the result of its study, together with its recommendations, not later than December 31, 1993.

(b) RECESS OR ADJOURNMENT.—If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(c) REFERRAL.—All reports and findings of the Committee shall, when received, be referred to the appropriate committees of the Senate and the appropriate committees of the House of Representatives.

SEC. 5. CONDUCT OF COMMITTEE BUSINESS.

The Committee shall not conduct any business prior to November 15, 1992.

NOTICE OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Thursday, July 30, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building on S. 2481, reauthorization of the Indian Health Care Improvement—Alcohol and Substance Abuse Program.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON OVERSIGHT AND GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Thursday, August 6, at 9:30 a.m., in room 342 of the Dirsken Senate Office Building, on oversight of the Defense Commissary Agency.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, August 11, 1992, beginning at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills currently pending before the subcommittee:

S. 2505, to amend the Land and Water Conservation Fund Act of 1965 to provide for the establishment of the America the Beautiful Passport to facilitate access to certain Federally administered lands and waters, and enhance recreation and visitor facilities thereon, to authorize the Secretary of the Interior and the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes;

S. 2723 and H.R. 4999, to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

S. 3100, to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, Louisiana, and for other purposes; and

H.R. 4276, to amend the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information regarding the hearing, please contact Tom Williams at (202) 224-7145 or David Brooks at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. 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 30, 1992, at 2 p.m. to hold a hearing on interpreting the Pressler amendment: commercial military sales to Pakistan.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, July 30, 1992, at 2 p.m.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, July 30, 1992, to hold a hearing on efforts to combat fraud and abuse in the insurance industry: Part 6.

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

COMMITTEE ON AGRICULTURE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, July 30, 1992, at 9:30 a.m. in SR-332 to conduct a hearing on cosmetic standards and presticide use on fruits and vegetables.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Thursday, July 30, 1992, at 2:30 p.m. on S. 2644 and rail-highway grade crossing safety.

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

SUBCOMMITTEE ON CONSUMERS

Mr. FORD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 30, 1992, 9:30 a.m. on telemarketing fraud.

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

SUBCOMMITTEE ON TERRORISM

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday July 30, at 10 a.m. to hold a hearing on Capcom, money laundering, and BCCI.

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

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on July 30, 1992, at 10 a.m. to hold a hearing on the President's recommendation that China continue to receive most-favored-nation [MFN] status.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. 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 30, at 4:30 p.m. to hold a closed hearing on military options in Yugoslavia.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 30, 1992, beginning at 2:30 p.m., in 485 Russell Senate Office Building on S. 2481, reauthorization of the Indian Health Care Improvement—Alcohol and Substance Abuse Program.

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

ADDITIONAL STATEMENTS

THE 50TH ANNIVERSARY OF THE POLISH HOME ARMY

• Mr. RIEGLE. Mr. President, the State of Michigan will be the site for the 50th anniversary of the Polish Home Army, or Armia Krajowa [A.K.] during the month of August. On August 7, 8, and 9 thousands of Polish Americans and their friends will pay tribute to the gallant efforts of those who defended the Polish homeland against Nazi invaders during World War II.

From the very start of that war, units of armed resistance emerged in Poland to protect the nation and its people from both Nazi and Communist aggression. Living under constant terror and threat of imprisonment and death, men and women conducted underground activities on behalf of their nation. Among these individuals were many who at the time had not even reached their teenage years. Children acted as couriers and proudly wore the arm bands of the A.K. Indeed, many ultimately became martyrs for this cause.

Throughout the duration of the Nazi occupation of Poland, the A.K. Army was consistently one of the most difficult elements with which the invaders had to deal. In fact, Nazi commanders were forced to keep very large numbers of troops in Poland due to the activities of this valiant group of patriots. Moreover, the home army's presence prevented many Nazi divisions from being deployed to other parts of Europe during WWII. The home army's endeavors benefited not only the Polish people but all Europeans in the battle against Nazi aggression.

History has recorded many acts of bravery and heroism resulting from A.K. campaigns, but one stands out as highly significant. In 1944, the Armia Krajowa rose up against the Nazi invaders in the city of Warsaw. For 63 days, with arms minimal in compari-

son to the heavy artillery of Germany, thousands of soldiers fought for the salvation of their capital. Unfortunately, in full view of the Russian Army that did nothing to assist those fighting in defense of Warsaw, the uprising failed with a death toll of more than 250,000. Warsaw was then totally destroyed.

The dreams and aspirations of the Polish Home Army, however, were not shattered with the Polish capital. A.K. soldiers continued to work for the freedom of their country during the years of Communist rule.

For the members of the Armia Krajowa, the war did not end in 1945. They paid dearly for their efforts at the hands of the Communist Party after World War II. The Party randomly arrested and imprisoned those who so selflessly gave of themselves to free their country from Nazi occupation. Tragically, many died in the same postwar Poland that they worked so hard to set free.

As the Polish Home Army gathers in Michigan for its 50th anniversary, there is a pride felt throughout the State in their heroism. And, America, itself, feels a deep sense of gratitude and affection toward the many men and women who came to the United States after the war, sharing their talents and ideals with their new home. I honor them for their dedication to their traditional homeland and salute them for their contribution they have given to their new country. In the words of Polish writer Kazimierz Wierzynsk: "Nic sie nie zmienilo. W legendzie bedziemy umilowanym echem zyjacej przeszlości. I tak jak uśmiech znajduje prawdziwa harmonie w drugim uśmiechu * * * tak dusza polaczy sie ostatecznie z pokrewnymi duszami." (Nothing has changed. In legend we will be a loved echo of the living past. And like a smile finds harmony in another smile, souls join in the end with other souls.)

It is my fond hope that the gathering of the Polish Home Army in the State of Michigan be an occasion of celebration and happiness. The experiences of each and every soldier enrich the lives of those who reside in our State. To all of those will gather, I offer my sincere best wishes. Zycze wszystkim wszystkiego najlepszego.

Sto Lat!•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for R.J. Short, a member of the staff of Senator THURMOND, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Short in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Brent Erickson, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from July 4–19, 1992.

The committee has determined that participation by Mr. Erickson in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Timothy Galvin, a member of the staff of Senator KERREY, to participate in a program in Mexico, sponsored by the Mexican Business Coordinating Council, Consejo Coordinador Empresarial [CCE], from July 12–15, 1992.

The committee has determined that participation by Mr. Galvin in this program, at the expense of the CCE, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Daniel Bob, a member of the staff of Senator ROTH to participate in a program in Tokyo, sponsored by the Association for Communication of Transcultural Study [ACT], from July 5–12, 1992.

The committee has determined that participation by Mr. Bob in this program, at the expense of the ACT, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Rick Carnell, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the U.S.-Asia Institute and the Chinese People's Institute of Foreign Affairs, from August 15–September 1, 1992.

The committee determined that participation by Mr. Carnell in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Leslie Tucker, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from August 15 September 1, 1992.

The committee determined that participation by Ms. Tucker in this program, at the expense of the Chinese People's Institute of Foreign Affairs is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator and Mrs. SIMPSON, to participate in a program in Turkey, sponsored by the Turkish-American Businessmen's association of Izmir and the American-Turkish Friendship Council, Inc., from May 25–30, 1992.

The committee determined that participation by Senator and Mrs. SIMPSON in this program, at the expense of the sponsors, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Dennis Burke, a member of the staff of Senator DECONCINI, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–17, 1992.

The committee has determined that participation by Mr. Burke in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Amy Dunathan, a member of the staff of Senator CHAFEE, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–17, 1992.

The committee has determined that participation by Ms. Dunathan in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Tim Bernstein, a member of the staff of Senator MOYNIHAN, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–18, 1992.

The committee has determined that participation by Mr. Bernstein in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Linda McIntyre, a member of the staff of Senator WOFFORD, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from July 13–17, 1992.

The committee has determined that participation by Ms. McIntyre in this

program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Stewart Smith, a member of the staff of Senator SARBANES, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 17–29, 1992.

The committee has determined that participation by Mr. Smith in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Mary Irace, a member of the staff of Senator SARBANES, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs and the Far East Studies Institute, from July 4–19, 1992.

The committee has determined that participation by Ms. Irace in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Jo Ellen Urban, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 17–30, 1992.

The committee has determined that participation by Ms. Urban in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Brett N. Francis, a member of the staff of Senator HATCH, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 15–30, 1992.

The committee has determined that participation by Mr. Francis in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for J. Caleb Boggs, a member of the staff of Senator ROTH, to participate in a program in China, sponsored by the Soochow University, from July 5–11, 1992.

The committee has determined that participation by Mr. Boggs in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Dr. Robert McArthur, a member of the staff of Senator COCHRAN, to participate in a program in China, sponsored by the Soochow University, from July 5–11, 1992.

The committee has determined that participation by Dr. McArthur in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Peter Galbraith, a member of the staff of Senator PELL, to participate in a program in Germany, sponsored by the Hochschule Bremen, from June 25–26, 1991.

The committee determined that participation by Mr. Galbraith in this program, at the expense of the Hochschule Bremen, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Jessica Gavora, a member of the staff of Senator MURKOWSKI, to participate in a program in China and Hong Kong, sponsored by the Far East Studies Institute and the Chinese People's Institute of Foreign Affairs, from July 4–19, 1992.

The committee has determined that participation by Ms. Gavora in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator CONRAD BURNS and his wife to participate in a program in the Republic of China, sponsored by the Chinese National Association, from July 13—18, 1992. At the conclusion of this trip, Senator and Mrs. BURNS have been invited by Fuji America Co. to attend a program in Tokyo, from July 18–20, 1992.

The committee has determined that participation by Senator BURNS and his wife in these programs, at the expense of the Chinese National Association and Fuji America Co., respectively, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Cynthia M. Faulkner, a member of the staff of Senator COHEN, to participate in a program in Taiwan, sponsored by the Soochow University, from July 4–11, 1992.

The committee has determined that participation by Ms. Faulker in this program, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Tom Fulton and Jack Ramirez, members of the staff of Senator CONRAD BURNS, to participate in a program in the Republic of China, sponsored by the Chinese National Association, from July 13–18, 1992. Mr. Fulton and Mr. Ramirez have also been invited to participate in a program in Tokyo, sponsored Fuji America Co., from July 18–20, 1992.

The committee has determined that participation by Tom Fulton and Jack Ramirez in these program, at the expense of the Chinese National Association and Fuji America Co., respectively, is in the interest of the Senate and the United States.●

TRIBUTE TO ELKTON

● Mr. MCCONNELL. Mr. President, I rise today to recognize the town of Elkton in Todd County.

Unlike many of today's small-town public squares, Elkton's town center is still a viable commercial district. The shops have remained while the courthouse has moved. It is a charming and historic downtown where only two buildings do not hold a spot on the National Historic Register of Historic Places.

Agriculture is the driving force behind the economy of bucolic Todd County. The county continually ranks near the top in wheat, barley and tobacco production.

But not all residents of Todd County have been farmers; it has been home to some notable residents who did not work the rich, rolling farmlands. Elkton's Benjamin Helm Bristow was a noted lawyer who founded the American Bar Association. Another Elkton lawyer was U.S. Supreme Court Justice James Clark McReynolds. Novelist and poet Robert Penn Warren, winner of three Pulitzer Prizes and the Nation's first poet laureate is another of Todd County's favorate sons.

The person who left the biggest mark on the landscape of Todd County is Jefferson Davis, President of the Confederacy, whose birthplace and achievements are memorialized in a 351-foot tall obelisk.

The good people of Elkton are well prepared to meet the changes of tomorrow without forgetting the roots of their past.

Mr. President, I would like the following article from the Louisville Courier-Journal to be submitted into the CONGRESSIONAL RECORD.

The article follows:

ELKTON

(By Cynthia Crossley)

In 1979, the writer Robert Penn Warren returned to his native Todd County to attend ceremonies honoring a Todd County native of another era, Jefferson Davis.

Elkton, Warren wrote after the trip, was "a rather charming old town, not yet undone by time and progress."

That's still true today.

There is no stoplight in all of Todd County. Nor is there a hospital, a new-car dealer or a place for a man to buy a suit.

"You could have taken me to India and it wouldn't have been as big a culture shock," said Joy Bale Boone of her reaction when she moved from Elizabethtown to Elkton in 1975 after marrying George Street Boone, a lawyer and former state legislator who is now vice chairman of the Kentucky Bicentennial Commission.

Along Elkton's public square, time has largely stopped. All but two of the buildings

are on the National Register of Historic Places. Now, when property owners plan to renovate, they are encouraged to return the buildings to their original appearance.

In the center of things sleeps the old country courthouse, which is one of the oldest in Kentucky. Two tales are told as to how the now-empty, two-story building came to be built in 1835. According to the more widely reported story, the project supervisor hired four bricklayers and assigned each of them to build a wall; the man who did the best work was to be rewarded with a gold watch.

The walls went up, and the south wall, laid by a mason named H.H. Shemwell, was deemed best. For some reason, Shemwell's prize turned out to be an overcoat rather than a gold watch. Not to worry. Years later, a son of Shemwell was quoted as saying the winner greatly treasured his overcoat, and wore it only on special occasions.

According to the other tale, the supervisor was heard boasting about his own bricklaying skills and was challenged to a contest. He became one of the four contestants, and won with his work on the building's west wall.

However, it appeared that judgment to be wrong. In 1988 a large crack appeared in the west wall. An investigation determined that a drought had caused a drop in the water table, which led to a partial collapse of some caverns beneath the building.

County government vacated the courthouse in 1976 for a new building three blocks away. On the first floor of the empty building, a visitor would find four old fireplaces, the circuit clerk's old black vault and the reinforcement rods that crisscross overhead to hold the structure together.

But while the courthouse is empty, the stores on the square surrounding it are not. Nothing has come to Todd County to threaten the survival of the two corner drugstores, the hardware store, the women's clothing store, the Dollar General store, the bank, the little "Cash Grocery" store, the beauty parlor, the two eateries and the several offices that line the square.

When something can't be found in Todd County, a shopper has a choice of stores in Russelville, Hopkinsville, and the mall in Clarksville, Tenn. The big city offerings of Nashville are about an hour away.

"People say, 'What you need in here is a Wal-Mart,' " said Mayor Bryan Blunt, "Well, there are three Wal-Marts within 20 miles of this square, I don't ever expect a Wal-Mart store here."

When progress does intrude on the public square, it comes with the rumbling of trucks and other traffic passing to and from Hopkinsville, Russelville and Bowling Green on U.S. 68-KY 80.

"It surprises me, all the traffic going around the square," said accountant Robert Martin, who has an office across from the courthouse, "Sometimes I think 'Where do all these people come from?' "

Not from tiny Elkton, The traffic invades a town whose population has grown very little and a county whose population has declined over the decades. In 1930, the census counted 13,520 souls in Todd County; by the 1990 census, that number had declined to 10,940.

Many townsfolk say someone needs to build more houses in Elkton to try to halt that decline. But one breath later they'll tell you there is no land in the city limits for a subdivision, and that they think most of Todd County's farmers would be unwilling to sell their land. Agriculture still has a strong hold on the county: in 1988, farms accounted for 72 percent of Todd's 367 square miles.

Farming's prominence in Todd County produced a major controversy—an argument over the location of the proposed U.S. 68-KY 80 bypass, which would direct those rumbling trucks away from the square.

Plans called for the bypass to loop south of town, but irate farmers protested, saying the route ran through some of the best cropland in Kentucky. Given the influence of the farm community, the complaints carried weight. In 1990, Todd County ranked third in Kentucky for wheat and barley production, fifth for both dark-fired and air-cured tobacco, and seventh in cash receipts—$28 million that year—for farm crops, said Bill Jones, Todd County executive director for the federal Agriculture Stabilization and Conservation Service.

"Farming is what puts the bread and butter on the table here," Jones said.

So now the bypass is supposed to loop north of town, where shallow and rocky soils make farming trickier.

Forests and cliffs have created prime hunting lands in Northern Todd County, especially for deer and turkey. That draws a lot of hunters in the fall.

Some farmers see that as a mixed blessing. On one hand, they say, since deer can damage crops, the hunters help farmers by thinning the herds. On the other hand, some hunters "will shoot the cows and horses too," said farmer Jack Cross.

When those folks come to Elkton, "I don't go hunting. It makes me nervous to walk around," said Dallas Orr, a retired state trooper.

Cross and Orr were having coffee recently with some of the regulars at the South Fork restaurant, at the long table where "the UK-Duke game was replayed, about 50 times," Cross said.

The talk turned to an influx of another kind—the growing number of Amish and Mennonite farmers who have been moving from Pennsylvania and Ohio to several southern Kentucky counties, including Todd and neighboring Christian County. Many Todd Countians aren't sure what to make of their new neighbors.

South Fork's coffee drinkers weren't keen about the Mennonites' practice of driving steel-wheeled tractors over county roads. Indeed, it is hard to drive south from Elkton on KY 181 without coming up behind a tractor being driven by an impassive young man with a beard wearing a straw hat, a pastel shirt, black pants and suspenders.

The Mennonites are also famous for the goodies available at Schlabach's Bakery, located about seven miles south of town. Todd Countians stock up there on the bakery's popular sweet rolls, breads, cookies and pies.

But food aside, the jury seems to be out on what to make of the newcomers. Jo Tribble of Trenton still shakes her head when she recalls how an Amish family bought a house from her, then proceeded to rip up the carpeting and pull out the electrical wires and telephone lines. But she also admits that she will rush to the window if she notices a line of buggies going by on their way to an Amish funeral or wedding.

In some ways, "they don't add a lot to your community," said Tribble, a receptionist at the Todd County Standard. "They don't send their children to public schools; they don't buy a lot of things from the stores; they're pretty self-contained.

"But they make us look sick when it comes to going to other areas to help with causes," such as cleaning up after natural disasters, Tribble said.

Perhaps the Mennonite and Amish experience in Todd County will become fodder for some of the writers Todd County seems to produce. So far, poet and novelist Robert Penn Warren—whose childhood home in Guthrie has been restored and is now open—has been the most widely known, but there have been others.

Joy Bale Boone and George Street Boone spoke of gatherings in Todd County and in Clarksville in the first half of the century that drew writers such as Dorothy Dix, Caroline Gordon, Allen Tate and Katharine Ann Porter.

George Street Boone recalled how the community had always been interested in education, and that the town was once the site of three academies, including one started as a prep school by Vanderbilt University. In addition to the community's writers, the academies also produced some of Todd County's prominent legal minds.

Although the academies are gone, there seems to be little on the horizon that will change the shape of Elkton or its slow pace.

However visible the Mennonites and the Amish may be, they still don't amount to anything like a population boom for Todd County. That's fine, because no one seems to be pushing for much growth.

Mayor Blount, who also runs the industrial foundation, said he would like to add one or two factories. But he said he wants the Elkton area "to expand just a little."

Joy Bale Boone said it's easy to appreciate Elkton's charms.

"I like the idea that I can walk to the post office," she said recently. "Why try to be a big city when you're lucky enough to have all the little town advantages?"

Population [1990]: Elkton 1,789; Todd county 10,940.

Per Capita Income (Todd County, 1989): $11,061, or $2,762 below the State average.

Jobs (Todd County 1990): Manufacturing, 1,327 employees; wholesale/retail, 487; Surface, 147; State local government, 432; contract construction, 45.

Big employers (Todd County) 1992; Flynn Enterprise (four plants), 695; Ardco Inc., 230; Banfcor Corp., 137; Guthrie Garment Co, about 100.

Medial; Newspapers—The Todd County Standard (weekly). Radio—WFKJ [Christian FM]; WERT [Gospel AM]. Television—cable available.

Transportation: Air—Standard Field, 3,500-feet grass strip one mile southwest of Elkton. Commercial scheduled air service available in Tennessee at Nashville International Airport, 66 miles southeast of Elkton, Rail—CSK Transportation and R.J. Coman Railroad Co. Truck—27 truck lines serve Todd County, Water—No transportation available.

Education: Todd County Public Schools (1,020). No colleges. From Elkton, Austin Peay State University in Clarksville, Tenn., is 25 miles southwest; Western Kentucky University in Bowling Green is 45 miles east; Vanderbilt University plus seven other colleges and universities in Nashville, Tenn., are 60 miles southeast; Hopkinsville Community College is 20 miles west, and Madisonville Community College is 52 miles north.

Topography: Rich, rolling farmland in southern Todd County gives way to some prime hunting grounds on the hilly, rocky land to the north. Lake Malone is in the northeast corner of county.

FAMOUS FACTS AND FIGURES

Todd County, which is only about 12 to 15 miles wide and 30 miles long, is named for Col. John Todd, who was killed at the Battle of Blue Licks in August 1782.

Elkton's Benjamin Helm Bristow was the first U.S. solicitor general (1870), a U.S.

Treasury secretary (1874) and an unsuccessful candidate for the Republican presidential nomination in 1876. Later, he was an adviser to three U.S. presidents and a founder of the American Bar Association. He died in 1896.

Elkton was home to a U.S. Supreme Court Justice, James Clark McReynolds. Before his 1914 appointment to the court, McReynolds was a U.S. attorney general. McReynolds died in 1946, five years after retiring from the court.

Not all prominent Todd Countians were lawyers. Novelist, and poet Robert Penn Warren, winner of three Pulitzer Prizes and the nation's first poet laureate, was born in Guthrie. Warren is probably best known for his novel about Louisiana's Huey Long, "All the King's Men." Although Warren spent most of his life outside Kentucky, his work often drew on his native state's history. He died in 1989.

And there's the Todd Countian with the monument, Jefferson Davis. The president of the Confederacy spent the first three years of his life in Fairview before his family moved to Mississippi in 1811. In 1917, 28 years after Davis died, the United Daughters of the Confederacy started work on a cast-concrete obelisk to honor him. The work stopped during World War I and the 351-foot tall memorial was dedicated in 1929.●

OMB RISK/RISK ANALYSIS

● Mr. GLENN. Mr. President, as chairman of the Governmental Affairs Committee, I have been working for the past several years to establish a fair and open process by which the President can oversee the Federal regulatory process and by which the American public can be assured of meaningful participation in Federal agency rulemaking decisions.

As many of my colleagues know, this effort has been frustrated in several ways. The most significant impediment to openness is the secret review process run by the Council on Competitiveness. Another problem is the questionable validity of many of the review decisions made by OMB's Office of Information and Regulatory Affairs [OIRA].

Three and a half months ago, we witnessed what must have been the most crazy logic to date of OMB's regulatory reviewers.

OMB stopped OSHA from working on an air contaminants rule because OMB said that the worker health protection rule would actually hurt more workers than it would help. OMB's idea was that industry compliance costs would be passed on to workers through lower wages, and since poorer people generally have poorer health, those workers would end up worse off than they would be from breathing poisoned air. OMB called this way of thinking, "risk-risk analysis."

Within a few days of the announcement of OMB's decision, I convened a hearing of the Committee on Governmental Affairs. OMB officials appeared and confirmed that indeed they thought their logic made sense. They also said that risk-risk analysis was a new kind of cost-benefit analysis that should and would be imposed on all regulatory agencies. Other witnesses disagreed, saying:

There is no empirical evidence to support the analysis;

Even theoretically, observing a general correlation between income and health does not amount to and cannot be transformed into a matter of causation in a specific regulatory instance; and

Whatever its academic validity, cost-benefit analysis cannot be considered in OSHA health standards. This is the law, and it has been upheld by Federal courts.

Within a few days of the hearing, OMB backed down and allowed the OSHA rulemaking to go forward. OMB, however, maintained its insistence that risk-risk analysis is an appropriate tool for OSHA and other agencies to use in reaching rulemaking decisions.

Given OMB's position, I asked the General Accounting Office to examine OMB's assertions about risk-risk analysis. GAO has now completed its review and, just as I said 3 months ago, OMB's risk-risk analysis makes no sense, and for OSHA health standards, is illegal, as well.

GAO interviewed OMB officials and those individuals cited by OMB as supporting risk-risk analysis. It also convened a panel of independent experts to examine OMB's analysis. GAO came to the following conclusions about risk-risk analysis:

First, OMB directed OSHA to break the law—OMB's analysis, no matter what it is called, involves balancing benefits to worker health against compliance costs. This is cost-benefit analysis, which the courts have said OSHA may not do in the case of health standards;

Second, risk-risk analysis is a pipe dream—despite OMB's assertions to the contrary, there is no established causal relationship between wealth and health. Moreover, there is insufficient data to even attempt to draw that conclusion; and

Third, OMB misused its own theory—even if it could work, OMB misapplied the underlying model originally proposed by Prof. Ralph Keeney. Professor Keeney actually told GAO investigators that OMB had not applied his model accurately.

GAO's report is a well-though-out and documented evaluation of OMB's misdirected idea. I commend it to all my colleagues and ask unanimous consent that it be placed in the RECORD

GAO's findings confirm to me how out of control this administration's regulatory review scheme has become.

I believe that the President has the right to review agency rules. I also believe that it makes sense for regulatory review to be done in a central office like OMB, that has staff with the clout to help agencies eliminate unnecessary or duplicative rules, streamline existing rules, and argue against overly burdensome rules.

But that review process should not be a secretive politicized avenue to help special interests or ideological extremists control agency decisionmaking. I shouldn't need to remind anyone here that when Congress passes legislation, which is then signed into law by a President, the authority to make the decisions necessary to implement that law is given to an agency head. That authority is not given to unnamed and unknown political operatives in the White House.

But, sadly, that is the case today. The Council on Competitiveness is running a secret process for granting favors to special interests and political supporters. And OMB seems to have become the final home for ideological extremists who would even flunk the classes of the academics they look to for guidance.

This has gone on too long. I have spent more than a year trying, without success, to get answers from the Council on Competitiveness about what rules it is reviewing and who it is meeting with. Before that, I spent another year working with OMB trying to come up with a fair and reasonable process to govern OMB regulatory review.

I must report that attempts at compromise have failed. It is time the Senate took up my bill, the Regulatory Review Sunshine Act, to give the American people the open and fair regulatory process they deserve. And it is time we tell this administration that if regulatory review will not be opened to the light of day, then it should be stopped.

The House has voted to strike funding for the regulatory review activities of the Council on Competitiveness. When the comparable appropriations bill comes to the floor of the Senate, I am prepared to offer an amendment to do the same. Maybe then this administration will get the message, that Government must operate fairly and openly. Americans will not have faith in their Government so long as they think that it operates unfairly and in secret to serve special interest.●

TRIBUTE TO KENTUCKY'S OLYMPIANS

● Mr. MCCONNELL. Mr. President, I rise today to salute the men and women representing the Commonwealth of Kentucky at the Olympics in Barcelona.

Kentucky will not only be represented by the athletes attempting to bring home the gold, but Olympic administrators, coaches, and trainers will play key, behind the scenes, roles in the 1992 Barcelona Olympic games.

I am proud of these Kentuckians who have worked hard to achieve their posi-

tions on the Olympic team and I assure you, Mr. President, that they will do their best to be the best. These Olympians are:

John Brucato, of Maysville, is the coach to U.S. swimmer Megan Kleine.

Mike Buncic, who graduated from the University of Kentucky in 1985, will throw the discus for the U.S. track and field team.

Sean Dollman, a resident of Bowling Green, will be representing Ireland in the 10,000-meter run.

Dr. David N. Caborn, of Lexington, is the team physician for the Moroccan National Federation Track and Field Team.

Mark Hamilton, of Louisville, will race in the four-man kayak, 1,000-meters competition.

Tom Hammond, of Lexington, will be announcing the diving and track and field events.

Micki King Hogue, of Lexington, will be in Barcelona as a representative of the governing body of U.S. diving.

Dr. Mary Lloyd Ireland, of Lexington, is on the U.S. medical staff. She is assigned to women's gymnastics, women's basketball, and backup duties at an urgent treatment unit.

Megan Kleine, of Lexington, will be swimming the 100-meter breaststroke.

Mary T. Meagher, of Louisville, will be an athlete liaison at the Olympic Games.

C.M. Newton, of Lexington, will be in Barcelona as chairman of the USA Basketball Games Committee and vice president of USA Basketball.

Ellen McGrath Owen, of Louisville, will be diving in the 10-meter platform event.

Mark Schubert, who graduated from the University of Kentucky in 1971, is head coach of the U.S. women's swim team.

Dorothy Trapp, of Lexington, will be riding in the equestrian 3-day event.

Molokai, of Paris, will be ridden in the 3-day event.

Leo White, who graduated from Cumberland College in 1980, will be competing in judo in the 95-kilogram weight class.

I applaud their achievements and wish them the best of luck at the Olympic games.

Mr. President I would like the following article from the Lexington Herald-Leader to be reprinted in the CONGRESSIONAL RECORD.

The article follows:

KENTUCKIANS AT THE OLYMPICS

(By Mark Maloney, Chuck Green, and Maryjean Wall)

Kentucky will be represented at the Barcelona Olympics in the water (swimming), on the water (kayaking) and into the water (diving).

The Bluegrass Connection on land will include athletes in track and field, judo and the equestrian Three-Day Event.

Besides athletes, Kentucky will be represented by officials, coaches, doctors, and a broadcaster. The total comes to 15 people and a horse—of course, of course.

Here are brief introductions of each.

JOHN BRUCATO

Event: Personal coach to Megan Kleine, U.S. women's swim team.

Age: 30

Residence: Maysville

Hometown: Fort Wright

School: Covington Catholic High School and Northern Kentucky University

Occupation: Coach, Wildcat Aquatics Swim-Club

Greatest accomplishment: Coaching Megan Kleine, 1992 Olympian

Where he was four years ago: Assistant coach at Nashville Aquatics Club, which sent three swimmers to the 1988 U.S. Olympic Trials

Quote: "Everything has been geared to swimming to (Megan's) maximum potential in Barcelona. She knows that she's going to need to be probably somewhere between a mid-1:08 to 1:09-low to be able to medal, but once she gets there she's going to be ready to swim her fastest."

MIKE BUNCIC

Event: Track and field, discus

Age: Turns 30 on Saturday

Residence: Campbell, Calif.

Hometown: Fair Lawn, N.J.

Height: 6-4

Weight: 245

School: University of Kentucky (education, 1985)

Occupation: Sports training research analyst

Greatest accomplishments: Ranked No. 1 in the U.S. and No. 4 in the world in 1989, and No. 1 in the U.S. and No. 4 in the world in 1991; two-time Olympian (1988, 1992)

Chances to medal: Questionable. Buncic is capable—his throw of 227 feet, 7 inches was the world's best in 1991—but a hamstring injury has held him back this season. He placed fifth in last year's World Championships at Tokyo.

Where he trains: San Jose, Calif.

Where he was four years ago: He placed 10th in the Seoul Olympic Games.

Quote: "I don't plan on being a tourist in Barcelona. Last time, just to be an Olympian was almost enough, but this time it's not."

SEAM DOLLMAN

Event: Track and field, 10,000 meter run (representing Ireland)

Age: 23

Residence: Bowling Green

Hometown: Johannesburg, South Africa. (Note: Dollman holds dual citizenship with Ireland and South Africa. His mother is Irish, his father is South African.)

Height: 6-2

Weight: 140

School: Western Kentucky University (history and government undergraduate, 1991; public administration master's, December 1992)

Occupation: Student

Greatest accomplishments: Won the NCAA Division I Cross Country Championships last fall, and in the spring captured the 10,000-meter run in the NCAA Outdoor Track and Field Championships. Has qualified in the 10,000 for the 1993 World Championships at Stuttgart, Germany

Chances to medal: Long shot. Dollman ran the race of his life, cutting 24 seconds from his personal best, to meet the Olympic qualifying standard in the July 4 * * * Games at Oslo, Norway. He finished 13th in that race with a time of 27 minutes, 56.34 second.

Where he trains: Bowling Green.

Where he was four years ago: Training on the roads in Bowling Green

Quote: From Curtis Long, Dollman's coach at Western Kentucky: "He has been someone who is organized and disciplined in what he does. He is consistent, so when it's a day to rest, he's resting; when it's a day to be working, he's working; when it's a day to run easy, he runs easy. . . . He was doing the workouts called for, and he was doing it in the manner called for."

DR. DAVID N. CABORN

Event: Team physician for Morocco National Federation Track and Field Team

Age: 35

Residence: Lexington

Hometown: Edinburgh, Scotland

School: St. Andrews University of Scotland (undergraduate); Emory University and Manchester University of England (graduate); Duke University and Greenville, S.C. Memorial Medical Center (residency), and University at Pittsburgh (fellowship)

Occupation: Assistant professor of orthopedic surgery section of sports medicine and directory of sports medicine, University of Kentucky Chandler Medical Center

Greatest accomplishment: Won 1989 Grandfather Mountain (N.C.) Marathon.

Where he was four years ago: Orthopedic surgery resident at Greenville, S.C. Memorial Medical Center

Quote: "I'll be essentially treating overuse injuries and an occasional acute injury * * * It's always high pressure because everyone wants a gold medal, so they're usually teetering on the edge of their limits."

MARK HAMILTON

Event: Kayak, K-4 1,000 (fourman kayak, 1,000 meters.

Age: 34

Residence: Costa Mesa, Calif.

Hometown: Louisville

Height: 6-3

Weight: 185

School: St. Xavier High School and University of Kentucky (1983 graduate)

Occupation: Administrative analyst for public relations and marketing for the City of Orange, Calif. (Hired through the Olympic Job Opportunities Program)

Greatest accomplishment: Qualifying for 1988 and 1992 Olympic Games; Seventh in K-4 1,000 at 1991 World Championships

Chances to medal: Considered strong or outside chance to medal.

Where he trains: Newport Beach, Calif.

Where he was four years ago: Seoul Olympic Games as an alternate in the K-4 1,000 and K-2 1,000. Did not compete

Quote: "The American public continues to focus only on the gold medals. Any time you medal—period—regardless of the color, It's a tremendous achievement, especially given the fact that we don't have a professional level to our sport. So this is the very highest level for us."

TOM HAMMOND

Event: Broadcaster (diving and track and field)

Age: 48

Residence: Lexington

Hometown: Lexington

School: University of Kentucky (bachelor's and master's in equine genetics)

Occupation: Broadcasting and video production (NBC Sports, Jefferson Pilot)

Greatest accomplishments: 1984 Eclipse Award for coverage of Breeders' Cup, Englehard Award for excellence in broadcasting thoroughbred racing, 1988 and 1992 Olympics broadcaster, host of Breeder's Cup broadcast

Where he works: Based in Lexington, traveling the world

Where he was four years ago: Broadcasting the Seoul Olympics for NBC-TV

Quote: "I don't draw attention to myself. I think this television business often rewards style over substance. I like to think I've got a little more substance over style."

MICKI KING HOGUE

Event: Will be in Barcelona as a representative of the governing body of U.S. diving

Age: 48

Residence: Lexington

Hometown: Pontiac, Mich.

School: University of Michigan (majored in journalism and physical education)

Occupation: University of Kentucky professor of aerospace studies, commander of UK Air Force ROTC program

Greatest accomplishments: Won gold medal in 3-meter springboard diving in 1972 Summer Games in Munich, Germany; became first woman to teach physical education at the U.S. Air Force Academy; was named the Academy's assistant athletic director in 1983

Where she was four years ago: Was team leader/manager of the U.S. diving team in Seoul, helping with training and practices

Quote: "Getting caught up in the color and glamor of the Olympics is something every athlete there will do, regardless of how much their coach wants them not to. You're one of the best athletes in the world, surrounded by other great athletes, and to be asked to ignore that fact is impossible."

DR. MARY LLOYD IRELAND

Event: Physician, U.S. medical staff, assigned to women's gymnastics, women's basketball and backup duties at urgent treatment unit

Age: 39

Residence: Lexington

Hometown: Lexington

School: Sayre High School; Memphis State (undergraduate); Tennessee-Memphis (medical)

Occupation: Orthopedic surgeon, Kentucky Sports Medicine Clinic; team physician, University of Kentucky and Eastern Kentucky University

Greatest accomplishments: 1992 U.S. Olympic medical staff, and head physician, 1990 U.S. Olympic Festival. A former competitive swimmer, she swam the 100-meter breaststroke in the 1973 World University Games in the Soviet Union

Where she was four years ago: Practicing orthopedic surgery and traveling with women's U.S. basketball team at Jones Cup in Taipei, Taiwan

Quote: "It's one of those situations where you'd like to go over there and not be busy at all, but you get psyched up to take care of most any problem."

MEGAN KLEINE

Event: Swimming, 100-meter breastroke

Age: 17

Residence: Lexington

Hometown: Lexington

Height: 5-6

Weight: 116

School: Henry Clay High School

Occupation: Student

Greatest accomplishment: Placing second in U.S. Olympic Trials

Chances to medal: Long shot. Kleine's time of 1:10.08 in the U.S. Trials is nearly 1½ seconds off the 1988 bronze-medal time of Germany's Silke Hoamer.

Where she trains: Woodland Park and University of Kentucky's Lancaster Aquatics Center.

Where she was four years ago: Watching the Olympics on TV and participating with the Brookhill Swim Club.

Quote: "If you win, that's great. But no matter what happens, I'm still going to have a wonderful time."

MARY T. MEAGHER

Event: Athletes' liaison

Age: 27

Residence; Louisville

Hometown: Louisville

School: Sacred Heart Academy; Cal-Berkeley

Occupation: Conducts swimming camps and clinics; motivational speaker; volunteer for U.S. Olympic Committee

Greatest accomplishments; World records in 100- and 200-meter butterfly; triple gold-medalist in 1984 Olympics, bronze-medalist in 1988 Olympics.

Where she was four years ago: At the Seoul Olympic Games, Meagher was bronze-medalist in the 200-meter butterfly and seventh in the 100-meter butterfly. She swam in preliminaries only for the silver-medal 4 x 100 medley team.

Quote: "I've been out of the sport for four years, but really it was 13 years ago that I reached the top, and I guess now I've really realized that there were things that I did do differently that helped me become as good as I did, and there were things along the way that hindered my progress as well. Now I have the opportunity to go back and try to instill in younger kids some of that philosophy, some of that motivation, those ideals and goals and things along those lines."

C.M. NEWTON

Event: Will be in Barcelona as chairman, USA Basketball Games Committee; vice president, USA Basketball

Age: 62

Residence: Lexington

Hometown: Fort Lauderdale, Fla.

School: University of Kentucky (1952 bachelor's, 1957 master's)

Occupation: Athletic Director, University of Kentucky

Greatest accomplishments: U.S. Olympic basketball team assistant, 1964 gold medalists; 609–375 record in 32 seasons as a college coach, including Southeastern Conference Coach of the Year awards in five different seasons; lettered on UK's 1961 NOAA championship basketball team

Where he was four years ago: Chairman of USA Basketball's (Olympic) Player Selection Committee and treasurer of USA Basketball, but did not travel to Seoul Olympics because of recruiting duties as coach at Vanderbilt University

Quote: "The thing I'm most proud of is that the (selection) process was never compromised. It was fair, it was void of politics and we picked a heck of a team, recognizing that we would be second-guessed and so on. You can second-guess the team, but you can't second-guess the process."

ELLEN (MCGRATH) OWEN

Event: Diving, 10-meter platform

Age: 29

Residence: Bellevue, Wash.

Hometown: Louisville

Height: 5-2

Weight: 108

School: Male High School, University of Alabama (advertising, 1955)

Occupation: Ford Motor Co., Lincoln Quality Care Manager

Greatest accomplishment: Winning 1991 national outdoor platform championship, 1992, U.S. Olympic Trials platform

Chances to medal: Possible, while her main competition from China and the former Soviet Union can score big with some difficult dives, Owen's forte is consistency.

Where she trains: Federal Way, Wash.

Where she was four years ago: Working for Ford in Seattle

Quote: "I think if I dive well (and) if Mary Ellen Clark, my teammate, dives well, and everybody else does about what they usually do, we have a real good shot at being first, second or third. . . . It's just whether or not you put it together on that day."

MARK SCHUBERT

Event: Head coach, U.S. women's swim team

Age: 43

Residence: Austin, Texas

Hometown: Akron, Ohio

School: University of Kentucky (1971 education)

Occupation: Head coach, University of Texas woman's swim team through July 31. Effective Aug. 1: head coach University of Southern California men's team.

Greatest accomplishments: Winning two NCAA women's team championships at Texas; coaching Mary T. Meagher to three gold medals in 1984 Olympics, and Brian Goodell to two golds in 1978 Olympics; U.S. Olympic assistant coach 1980, '84 and '88

Where he was four years ago: Seoul Olympic Games, as assistant coach of U.S. swim team

Quote: "Because (Americans) have been so successful in the past I think that helps our confidence. And I think it actually helps us on the starting blocks in that people expect us to do well—and the athletes expect to do well. It's tradition."

DORTHY TRAPP

Event: Equestrian, Three-Day Event

Age: 30

Residence: Lexington

Hometown: Lexington

Height: 5-9½

Weight: 130

School: Sayre High School, University of Kentucky

Occupation: Equestrian, part-time horse broker and riding instructor

Greatest accomplishment: 1992 U.S. Olympic team member

Chances to medal: Long shot. One of the four team horses must fail to pass veterinary check before she can ride as an alternate.

Where she trains: Florida, Virginia and Kentucky

Where she was four years ago: Louisville, teaching riders and beginning to train Molokai

Quote: (Ten years ago, Trapp wrote out an "Olympic plan" for her lifelong dream.) "For each year I'd listed what I thought I could do. I wrote that the first year I thought I could make the team would be 1992."

MOLOKAI

Event: Equestrian, Three-Day Event

Age: 9

Residence: Anywhere his rider travels

Hometown: Paris

Height: 16.2 hands.

Weight: About 1,000 pounds

Breeder: Steeple Hill Farm, Paris

Personal: Bay thoroughbred gelding

Occupation: Three-Day Event horse (and ex-racehorses)

Greatest accomplishment: 1992 Olympic team member

Chances to medal: If he gets a chance to compete, his great speed and soundness are expected to be advantageous

Where he was four years ago: Left the racetrack; unable to win, and began training as Three-Day Event horse

Quote: "Neigh!"

LEO WHITE

Event: Judo, 95-kilogram (200-pound and under) class

Age: 34
Residence: Newport News, Va.
Hometown: Seaside, Calif.
Height: 6-0
Weight: 220
School: Cumberland College (1980 business administration)
Occupation: Captain, U.S. Army, stationed at Fort Eustis, Va.
Greatest accomplishment: Four-time World Military champion; U.S. Military Athlete of the Year (1983); a record 13 U.S. national titles; three Pan American Games bronze medals (1979, '83, '87) and one silver (1991), and qualifying for 1984 and 1992 Olympic Games
Chances to medal: Excellent. White has beaten: the 1984 Olympic gold-medalist five times in as many tries; the 1968 Olympic gold-medalist twice in five tries with White's wins coming in their last two meetings, and the 1991 World Championships silver and bronze medalists.
Where he trains: Virginia Beach, Newport News and Fort Eustis, Va.
Where he was four years ago: A Seoul Olympic alternate, White "ripped out my back" soon after the U.S. trials and would have been unable to compete.
Quote: "I'm getting a medal. I just don't know what color it's going to be. It depends on how much I train and how I have my head screwed on. Some hardware's coming home to the States, though."•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, July 31; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately after the Chair's announcement, the Senate proceed to the consideration of calendar No. 570, H.R. 5373, the Energy and Water Appropriations Bill.

Mr. President, I am authorized to state that this has been cleared by the Republican leader.

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

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:37 p.m., recessed until Friday, July 31, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 30, 1992:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PHILIP BRUNELLE, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 1994.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.