# SENATE—*Saturday, September 26, 1992*

*(Legislative day of Wednesday, September 23, 1992)*

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

## PRAYER

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

Let us pray.

Baruch Ha'Shem! Blessed be the name of the Lord, God of Abraham, Isaac, and Israel. On this Sabbath, may we heed the ancient word of Moses:

*Hear therefore, O Israel, and observe to do it; that it may be well with thee, and that ye may increase mightily, as the Lord God of thy Fathers hath promised thee, in the land that floweth with milk and honey. Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart * * *.*—Deuteronomy 6:3–6.

Mighty God, give us ears to hear, minds to understand, hearts to receive and wills to obey. 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, September 26, 1992.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RESERVATION OF LEADER TIME

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

## TAX ENTERPRISE ZONES ACT

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of H.R. 11, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho [Mr. CRAIG] is recognized.

AMENDMENT NO. 3200

(Purpose: To increase the supplemental young child credit and phaseout percentages as such percentages relate to the earned income credit, to amend the provision relating to deduction for qualified adoption expenses, and for other purposes)

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

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself, Mr. HATCH, Mr. COATS, Mr. GORTON, Mr. MCCAIN, and Mr. SEYMOUR, proposes an amendment numbered 3200.

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

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

The amendment is as follows:

On page 1022, beginning with line 4, strike all through line 7, and insert:

(c) INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended—

(1) by striking "5" in clause (i) and inserting "7.5", and

(2) by striking "3.57" in clause (ii) and inserting "5.35".

Beginning on page 1637, line 9, strike all through page 1639, line 19 and insert:

**SEC. 7104. DEDUCTION FOR ADOPTION EXPENSES.**

(a) DEDUCTION FOR ADOPTION EXPENSES.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

**"SEC. 220. ADOPTION EXPENSES.**

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's regard to this section and section 134) exceeds $80,000, bears to

"(B) $10,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State, or local program.

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement and

"(B) are not incurred in violation of State or Federal law.

"(2) ADOPTION EXPENSES NOT TO INCLUDE CERTAIN AMOUNTS.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption by an individual of a child who is the child of such individual's spouse, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) CHILD.—The term 'child' means an individual who at the time of adoption under this section has not attained the age of 18.".

(2) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking the item relating to section 220 and inserting the following:

"Sec. 220. Adoption expenses.
"Sec. 221. Cross reference.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220.".

(c) ADOPTION ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is

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

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amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

**"SEC. 136. ADOPTION ASSISTANCE PROGRAMS.**

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed the excess (if any) of $5,000 over the amount allowable as a deduction (or amounts taken into account in computing the deduction) under section 220 with respect to such adoption.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and section 220) exceeds $80,000, bears to

"(B) $10,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 220(c).".

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following:

"Sec. 136. Adoption assistance programs.
"Sec. 137. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

**SEC. 7104A. DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a) (relating to allowance of credit) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN TAXPAYERS.—In the case of a taxpayer whose adjusted gross income for the taxable year exceeds $80,000, paragraph (2) shall be applied by substituting '20' for '30', by substituting '10' for '120', by substituting '$1,000' for '$2,000', and by substituting '$80,000' for '$10,000'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

Mr. CRAIG. Mr. President, this week, the Senate has considered a variety of issues from a veto override to very sincere concern about how we improve from at least where we are able to improve the condition of the American family. We debated the Family and Medical Leave Act. We looked at different approaches. I and several others introduced flexible tax credits to expand the ability of the employer and employee to develop a relationship to improve the ability of the individual to deal with young children within their family or with spouse difficulties or seniors within their family.

H.R. 11 also deals with another aspect of the family or the creation of a family that I think all of us here believe to be extremely important. And what I am talking about are the provisions within H.R. 11 that deal with the ability of individuals to form a family through adoption.

I think all of us have recognized since 1990, with certain provisions of the law—and in the past year—that Congress, through public tax policy, could enhance the ability of individuals to adopt children, bring them into a family environment, and that it was clearly much more beneficial for this country to do so.

So on those goals, we are all united. I do not think any of us want to take issue with the other as it relates to those kinds of concepts or goals, especially where it came to parents helping or spending time to be able to provide—and now we are saying to be able to provide—care to children immediately and to improve the ability to adopt. So those are our intents.

My amendment approaches this concern differently than H.R. 11, and that is what I want to discuss this morning. It is very simple and very direct. It is a four-part amendment that provides a deduction for adoption expenses. It increases, by 50 percent, from 5 to 7.5 percent, the supplemental young child credit.

My amendment provides 12 times as much in tax credit benefits for working poor families as does H.R. 11. Well, first, the immediate question is how can you do that? You obviously have to have offsets to do that under the current scenario and, of course, we are able to accomplish that. We create a third 10-percent bracket for dependent care tax credit at the top end of the income scale. We maintain current law by striking a provision of H.R. 11 that allows a few taxpayers to claim both the young child credit and the dependent care tax credit. We deny the double deduction that H.R. 11 provides, and we spread it amongst a broader base of people.

Our provisions would create a deduction for up to $5,000 of expenses relating to any adoption, except for adopting of spouses' children. H.R. 11 provides only a deduction of up to $3,000 for a special needs adoption, and special needs is a provision within H.R. 11, new to the Code. We would exclude from employees' income tax adoption expenses of up to $5,000, paid by the employers; deductibility phaseout for taxpayers with adjusted gross incomes between $80,000 and $90,000. In other words, those who can truly afford to adopt today, we scale back benefits to those and spread it amongst those who can less afford to adopt, but are still every bit as much wanting to form a family unit in this country as those with more money.

This Nation wants to and can afford to do more beyond what H.R. 11 does, and ours, in dealing with the special needs definition, argues that that is an open area that is left largely to the States to define. In other words, in one State, age alone might qualify a child for the special needs adoption, while in another State, a child profoundly retarded and physically disabled might fit that category. We are saying all children. We are not saying just the special, but all children, recognizing that clearly, in those areas, there would be the benefits to provide for them.

Our provisions in this amendment result in tying eligibility for this national tax deduction beyond, as I have said, to the broad base. We do not leave it up to the States to create these unique definitions. We think at this level, if we are going to set the standards, then we ought to be clearly uniform in what we do, and it ought not be left exclusively alone to the State. Those are generally what we worked to accomplish in making those kinds of limited adjustments and dealing with all of those types of provisions that I think we ought to be able to deal with in truly promoting the concept of adoption in this country. Instead of narrow categories that sometimes people find difficult to define or difficult to identify with, we are making it a much more simple approach, broadening the base and, of course, I think in the meantime saying to this country that we really do want to expand the parameters of accomplishing this.

Increasing the supplemental youth child credit is a concern that I think many of us have as it remits to creating a part of the law we accomplished in 1990. It is now just phasing in and it is working. Some will say there is no record yet as to ability of this law to be defined and should we be changing it at this time. I think H.R. 11 already clearly defines what the intent is of the law and that is why we are wanting to expand that now, because we think that it is important that we do so.

It ought not be so narrowly defined and so limited. Clearly what we are able to accomplish by these amendments accomplishes that. When you increase the supplemental young child credit from 5 to 7.5 percent or a 50-percent increase in this tax credit for working poor families with an infant under 1 year it does some very significant things. Right now the new maximum is about $395 under current law. In 1993 under our provision that would go to $592. That is a cost of about $599 million over a 5-year period.

We accomplish this in the necessary offsets by the reducing of independent care claimed by the higher income households. In other words, if you real-

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ly are concerned about the working poor, then you need to take a very close look at this legislation.

My amendment that is cosponsored by Senator HATCH and others would phase down the dependent care tax credit again at the high end of the scale from 20 percent to 10 percent over the $80,000 to $90,000 range.

I think we would have to honestly argue in this country that families of that income if they want to adopt, can afford to adopt based on that income, and yet those that are making $25,000 or $30,000 a year who are anxious and desperate to form a family unit simply cannot look at the $10,000 to $12,000 in costs or more that are incurred in attempting to identify for the purposes of adoption.

That is exactly what we are tying to accomplish by this approach. Consistent with current progressivity at the lower end of the adjusted gross income scale is what we are attempting to do. It allows the channeling as additional revenue to, as I said, the supplemental young child credit where they have the maximum impact to low-income families with a child of 1 under where we really see parents, as we would hope, one of them wanting to stay at home for at least 1 year with that child during those most important years. It allows less discriminatory use of the tax credit assistance as I think I mentioned earlier and spreads the space.

Mr. President, that is the general thrust of this amendment, and I think we accomplish it in the way that the Tax Committee has insisted that we do as it relates to offsets in accomplishes that. And let me close this portion of the debate by demonstrating how largely we have accomplished that.

As I mentioned, we are talking about an increase of $197 a year, the full $5,000 deduction under H.R. 11 is about $63 million, the increase in supplemental young child credit to 7.5 percent would be $599 million so, totally, revenue cost of $662 million spread over a 5-year period.

The savings that I have mentioned in the way we have approved it from both the supplemental young child credit and the dependent child tax credit election status quo option there is a net savings of $51 million as so scored, and then there is a savings under the upper income phaseout of about $673 million. So there is a net savings offset of about $724 million, a net savings over a 5-year period by adopting this amendment of about $62 million.

Is it not amazing that we can in fact refigure the numbers, redirect it, serve more people, serve people of lesser income, make it a simpler approach than the very complicated approach that I think is embodied in H.R. 11 and have a net savings of $62 million over a 5-period.

With those considerations, let me also ask unanimous consent to enter into the RECORD statements by a variety of groups—from the National Council for Adoption; some additional information as it relates to the workability of this approach, Mr. President, and also a couple of editorials clearly arguing that we have created in this provision and in the law passed in 1990 a double dipping effect that we would eliminate by these provisions.

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

[From the Washington Post, Sept. 8, 1990]

DAY CARE AND TAX BREAKS

Sandra Evans' article "Child Care Proposals on Hill Would Hit Area Middle Class" [Aug. 20] implied that the primary reason the House adopted a phaseout of child care tax benefits was to fund new day-care programs for low-income families. This is not true.

Day-care tax write-offs were scrapped in the House primarily because many believe tying tax benefits to day-care expenses penalizes families that make economic sacrifices to care for their own children.

According to the most recent Census Bureau report on child care practices, 74 percent of all families with children under 14 and 70 percent of those with preschool children have no day-care expenses. Despite the fact that these families pay a significant "opportunity cost" (in forgone wages) to care for their own children, some believe they should be denied dependent care tax benefits because they do not have any out-of-pocket day-care expenses.

This argument appears reasonable until one considers that it could be used to justify a tax break for just about any expense. A taxpayer who eats at restaurants or calls out to Domino's could argue for a tax break because he uses his after-tax earnings to pay for meals that other families prepare for themselves. Similar claims could be made by those who hire housekeepers, butlers, gardeners, interior decorators and chauffers.

Thus, those who advocate linking tax benefits to day-care expenses must demonstrate that paid forms of day care are superior to unpaid family care arrangements. It is here that their case breaks down, for the raging debate in child development circles centers around whether or not non-familial group day care is bad for kids—not whether or not it is good.

It is a lamentable fact of modern life that not all parents enjoy the economic freedom to provide primary care for their own children—or live close enough to their parents or other relatives that they can rely on extended family assistance. But public policies that skew benefits in favor of paid day care only serve to increase the number of families that lack this freedom. For as the old cliche goes, you get less of what you tax, and more of what you subsidize.

Business groups and feminists are right to be concerned about the tax treatment of America's families with young children. America's families are seriously overtaxed. But in defending the status quo, they must explain why a family with an annual income of $90,000 should be entitled to day-care tax benefits worth up to $2,025 when a $30,000-a-year family that cares for its own children is eligible for $0.

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*Director of Policy Analysis,*
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WASHINGTON.

[From the Washington Post, Sept. 12, 1990]

A CHILD CARE DECISION

An important though secondary issue in the House-Senate child care conference involves not a new federal child care program, but the main existing one—the so-called dependent care tax credit. Part of the cost of caring for children and other dependents can be subtracted by working taxpayers from the taxes they would otherwise owe; the provision now costs the Treasury about $4 billion a year.

The Senate would make the credit 90 percent refundable. If a family was too poor to owe tax, instead of getting no benefit, as it does now, it would get a check from the Treasury. The House, less for lack of sympathy than for lack of funds, did not include such a provision. Instead it did the opposite: to raise money for another form of aid to low-income families with children, it phased out the existing credit for families with incomes above $70,000.

Our sense is that both steps—extending the credit to the poor who need it while taking it back from those in the upper-income brackets who don't—are good ideas and ought to be combined. In a time and a bill where funds are tight, the one can help to pay for the other. A combination would be sensible fiscal tax and social policy, all three.

An objection to phasing out the credit as income rises has come mainly from women's groups. They are not opposed to shifting subsidies from rich to poor, but they are opposed to picking on this particular subsidy. They say there are plenty of other less socially useful provisions in the tax code that should be attacked either first or in concert. They believe the cost of child care should be looked upon not as a personal expense like the costs of clothing and transportation, which for the most part are not deductible, but as a business expense, a cost of producing income that should be deductible creditable against taxes just like any other. Only, they argue, if Congress wants to phase out all such deductions as income rises—for the much-abused ritual of the business lunch, for example—should it phase out the child care credit too.

It would be fine if Congress moved to rationalize the current, often arbitrary distinctions between deductible business and nondeductible personal expenses: a lot in current law is socially unwise. It would be fine as well as an alternate or supplement to raising income taxes by raising rates. Congress achieved the same result by capping or otherwise trimming deductions as income rises. But these are broad reforms unlikely to occur this year. The choice is much likelier to come down to which to cut, the existing child care credit for the upper-income brackets or the provisions in these bills for the poor. That one's not even close.

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[From the Wall Street Journal, Oct. 10, 1990]

CONGRESS GETS THE CHILD-CARE ISSUE WRONG

(By Gary L. Bauer)

Congressional Democrats hoping to score political points on the day-care issue this fall may be in for a big surprise. While party leaders have long argued that the issue could alter the political landscape for years to come, recent field interviews conducted by social historian Barbara Dafoe Whitehead suggest otherwise.

Day care fails to "touch the emotional core of family concerns in grass roots America," Ms. Whitehead says in a recent publica-

tion of the Institute for American Values. Ms. Whitehead found that parents often stagger job schedules, work from home or find some other way "to maximize the time their child spends in the care of a parent or relative, and to minimize the time spent with non-relatives."

While policy makers and "day-care experts" claim that most employed parents who use family-based care do so because they cannot afford or do not have access to more preferred forms of "high quality" center-based care, Ms. Whitehead reports just the opposite. "Most parents believe that the safest and best child care is provided by a parent or a close relative," she notes. A number of public opinion polls support her case.

A 1989 Washington Post/ABC News poll found that eight out of 10 parents with children under age 14 believe it is best for children to be cared for by parents at home. A 1989 Lou Harris poll found that 82% of the American public believes care by parents or other family members is superior to care by non-relatives. And a University of Michigan study that year found that most employed mothers opting for care by family members did so out of preference rather than necessity.

This helps explain why a plan to provide school-based day care for preschoolers in Prince William County, Va., recently failed to generate enough parental interest to break even. If such a plan cannot work in a rapidly growing suburban county with no shortage of yuppie parents, one wonders whether it can work anywhere.

Apart from underestimating the power of family ties, official Washington also underestimates the power of family values. While policy makers and special-interest groups pooh-pooh care by family friends, neighbors and churches, Ms. Whitehead reports that parents who must rely on care by a non-family member prefer these options to institutional settings. Apparently, parents are more concerned about whether providers share their values than whether providers have completed 15 hours of state-approved training.

According to the most recent Census Bureau report, nearly half (47%) of all children under five have non-employed mothers at home. Add to that the 24% cared for by family members while Mom earns income, and one finds that approximately three out of four preschool children are cared by a mother at home or by some other family member.

Such information has not been reported widely in official Washington, in part because government bean counters rarely include children with mothers at home in their child-care statistics and usually focus greater attention on where a child is cared for than on who is providing the care.

Of course, this is not the only instance where official Washington flunks Demography 101. Both policy makers and the mass media are quick to draw the mistaken conclusion that the number of families using day care can be determined by measuring the number of employed mothers. This practice fails to take into consideration that roughly half of all preschool children with employed mothers are primarily cared for by family members.

A 1990 Los Angeles Times survey found that 57% of fathers and 55% of mothers feel guilty about spending too little time with their children. A 1987 Cornell University study found two-thirds of all mothers employed full-time would like to reduce their hours of employment and devote more time to their families. A 1989 New York Times survey found that 83% of employed mothers and 72% of employed fathers say they are torn by conflict between their jobs and the desire to spend more time with their families.

In addition, a 1988 USA Today poll found that parents with young children identify "missing big events in children's lives" as the thing they dislike most about their current day-care situation.

Given this data, it is little wonder that America's families have not rallied behind the Democratic leadership's day-care proposal. In fact, since the Democrats' day care bill was first introduced in 1987 public concern about day care's effects has actually increased. In a 1990 Times-Mirror poll, 73% of respondents said "too many children are being raised in day care," up from 68% in 1987.

Republicans can hardly gloat over Democratic failures, however, for the GOP has yet to demonstrate any keener understanding of or responsiveness to the concerns of average families. Indeed, many in the "me-too-only-cheaper" wing of the GOP are so fearful of being caught on the wrong side of a "motherhood" issue that they are urging the president to use new taxes to pay for a less-costly version of the Democrats' day-care bill. Apparently, they have yet to consider that day-care legislation is an attempt to supplant motherhood with bigger government.

Not only have Republicans failed to respond effectively to the day-care issue, but they also have positioned themselves as the enemies of family time by failing to develop pro-family alternatives to parental-leave legislation.

Parental leave, while conceived as a means of helping the parent-as-paid-worker protect his or her job, owes its public appeal to the fact that it symbolically places the child-rearing responsibilities of parents ahead of business interests. In the absence of a serious debate about more substantive ways to facilitate family time, such symbolism resonates—even though virtually everyone concedes children (and parents!) need far more than just 12 weeks of intense parent-child interaction.

No matter how resourceful they may be at finding ways to keep child-rearing "in the family," many parents believe they are fighting an uphill battle against the clock—a battle made all the harder by growing economic pressures, rigid employment structures and an aggressively anti-parent culture. Until official Washington demonstrates a concern for parent-child interaction beyond the child's 12th week of life, the official debate over work and family will continue to spark little enthusiasm among parents in grass-roots America.

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[From the Washington Post, Aug. 3, 1991]

THE MOTHER OF ALL MYTHS

In his zeal to convince readers that the unprecedented drop in female labor force participation is a non-story ["The Trend That Wasn't" Outlook, July 14], Richard Morin perpetuates three common myths about at-home mothers that, ironically, help to explain why Liz Spayd's July 8 front-page story caused such a stir in the first place.

The June Cleaver Myth. When Morin speaks of "June Cleaver smiling approvingly from sitcom heaven" and women giving up jobs to bake oatmeal cookies, he reaffirms the stereotype that mothers at home are caught in a 1950s time wrap. The truth is the day-to-day experiences of modern moms differ in a number of important ways from those of the June Cleaver era. For example, research shows that mothers at home today spend more "quality time" reading to, playing with, caring for and teaching their children than did mothers a generation ago.

Part of what has fueled this time shift appears to be a growing conviction that unfriendly cultural changes have made unhurried parental time with children even more important today than it was a generation ago. Whereas June and Ward Cleaver's biggest worry was that their sons might get caught up in some of Eddie Haskell's schoolboy pranks, today's parents often have to contend with much weightier fears: drugs and guns in schools, sex abuse in day care, teen pregnancy and youth suicide.

Thus, it is not surprising that many mothers are seeking to maximize the amount of time they spend with children by staying home full-time or by working part-time or from home.

The Dinosaur Myth. The fact that many women are currently at home with children is often obscured by widely circulated statistics that have been twisted to suggest that "traditional" workaday-homemaker families are an extinct, or near-extinct, species.

The truth is 41.1 percent of all married women with children under 6 are outside the paid labor force. And since the government defines labor force participation so broadly, women who work for pay as little as one hour a week are considered "employed." This figure undoubtedly understates the percentage of women who, for all practical purposes, are home-based moms.

Still, many journalists, policy makers and ordinary people buy into the Dinosaur Myth—especially here in Washington, where a higher percentage of moms work.

Part of the reason mothers at home are perceived to be as rare as spotted owls stems from the fact that they are less visible than employed women in the public square. Typically, mothers at home aren't seen dropping their kids off at day care centers or debating job-related sexual harassment on "Nightline" or pitching exotic vacations via the America Express card in TV commercials.

Moreover, many are tripped up by the Dinosaur Myth because they assume all mothers at home are permanent homemakers. In reality, many women move in and out of the labor force as family responsibilities wax and wane. Today's working woman is often tomorrow's mother at home, and today's mother at home is sometimes tomorrow's businesswoman.

The East Street Myth. Growing economic pressures have made it increasingly difficult for many families to gain or maintain a middle-class lifestyle on a single income. As a consequence, many like Morin argue that most mothers at home these days are married to brain surgeons and other top-dollar earners. While this myth helps assuage the guilt that some yuppie couples feel for putting careers ahead of children, it belies the truth.

According to the Census Bureau, the median income for two-earner families is $45,266; for single-earner married couple families, it is just $28,747. Moreover, income differences between one- and two-income families are almost entirely attributable to the wife's earnings.

Thus, the Easy Street Myth ignores the economic sacrifices many families make to devote time to child rearing, and it falsely implies shifting more time to family responsibilities is something only the rich can do.

In the last year, the number of non-employed women aged 20 to 44 has increased

nearly 320,000. While Morin would like for us to believe this growth is due solely to the recession, Labor statistics attribute more than nine-tenths of this increase to a rise in women "keeping house." Since Labor numbers show most of the recent increase in nonemployed men is due to "other reasons," there is reason to question seriously Morin's claim that women are not leaving paid work voluntarily any more than men are.

Whatever the case, one thing is certain. So long as the conventional wisdom denies that many gifted, intelligent, '90s women are choosing to devote significant amounts of time to the crucial task of raising children, Spayd and other journalists will find "news value" in stories that report the realities to be different. Thus, if Morin is tired of seeing mother-at-home stories, he should start dispelling—rather than reaffirming—the common stereotypes.—WILLIAM R. MATTOX Jr.

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FAMILY RESEARCH COUNCIL,
*Washington, DC.*

HOW "DOUBLE DIPPING" HURTS SINGLE MOMS, "MOMMY TRACKERS," AND FAMILY DAY CARE USERS

One of the critical questions that has been raised during the ongoing child care debate is this: should federal tax policy favor paid day care users over those families that provide care for their own children? Specifically, should day care users be permitted to "double-dip"; that is, should they be able to claim two tax credits while other families with young children claim but one?

As one might expect, much of the discussion about the alleged inequities posed by "double dipping" has centered on the treatment of so-called traditional families in which a mother stays home full time to rear her children. This focus has been appropriate, given the significant number of such families and their relatively lower income. But the fact that "double dipping" also adversely affects a number of families with employed mothers has often been obscured in the child care debate.

Accordingly, this paper will examine how "double dipping" hurts many single mothers, "mommy trackers," and family day care users. It will expose the faulty reasoning behind linking tax benefits to day care expenses and will propose a more equitable means of distributing tax benefits to families with young children.

MANY EMPLOYED MOMS DO NOT NEED PAID DAY CARE

One of the key arguments behind linking tax benefits to day care expenses is the assumption that paid day care is a mandatory precondition to employment. As the Philadelphia Inquirer put it in a recent editorial, "When the second parent or a single parent takes a job, [paid] child care is as mandatory as union dues for a Teamster or gasoline for a cabbie."

But this is not necessarily true. According to a recent Census Bureau survey of child care arrangements, half of all preschool children with employed mothers are primarily cared for outside the paid day care market. For example, more than 1.5 million preschool children are currently cared for by a grandmother or some other extended family member. This arrangement is particularly common in families headed by a single mother. In fact, black sociologist Robert Hill recently noted that 83 percent of the children in homes headed by an employed black woman who had never married are cared for by a family member while Mom is earning income.

While care by extended family members is also common in intact, two-earner households, some of these families resort to staggering work schedules so that children can be raised primarily by their parents. Indeed, recent Census Bureau data shows that more than one million preschool children are cared for in this manner.

As one would expect, "tag-teaming" is prevalent in families where one or both parents have decided to cut back on their hours of employment while children are young (parents who are on the so-called "Mommy Track" or "Daddy Track"). And it is particularly common in families where one or both parents do some or all of their income-producing activities from home.

In addition to children cared for by extended family members and "tag-team parents," there are some 600,000 preschool kids whose "doubletime mothers" hold jobs which allow them to care for their own children while earning income. Family day care providers who take in other children while they care for their own are the most obvious example of such mothers.

Thus, the number of families that primarily care for their own children is far larger than one might assume from considering data on employed mothers. Indeed, Census Bureau data on how preschool children are cared for (as opposed to whether their mothers are employed) show that three-fourths of the U.S. preschool population are primarily cared for by one or more family members.

While some of these families receive some modest benefit from the tax code's Dependent Care Tax Credit (because they occasionally use a paid babysitter when no family member is available to help), it is nevertheless true that the tax code currently penalizes their efforts to maximize the amount of time their children spend in the care of one or more family members. Indeed, the Dependent Care Tax Credit is configured in such a way that it perversely rewards parents for not spending time with their children.

Generally, the more time a child spends in substitute care, the greater the family's day care expenses. And the greater the family's day care expenses, the higher the family's tax credit. Thus, the DCTC discourages parent-child interaction by increasing the "opportunity cost" (in foregone after-tax earnings) that parents and other family members pay to spend time with their children.

In essence, the credit redistributes income from families that have little or no day care expenses to those that have considerable day care expenses. Not only does this penalize those families that seek to maximize the amount of care they provide their own children, but it has the effect of subsidizing center-based programs more heavily than home-based programs since family day care programs usually have lower overhead expenses, and, in turn, lower fees.

This fact is especially disconcerting since most parents prefer home-based day care programs over center-based care and most child development experts, including Ed Zigler, Urie Bronfenbrenner, Penelope Leach, and others, believe family day care programs are better for children under three years of age than center-based programs.

Moreover, the fact that family day care providers receive no tax benefit for caring for their own children creates a situation where in order to make ends meet, providers must either increase day care fees (hindering affordability of care) or increase the number of children they care for (possibly hindering quality of care). Thus users of home day care programs run by mothers of young children stand to gain from proposals to eliminate "double dipping."

THE REAL ISSUE

Apart from overemphasizing the link between paid day care and employment, supporters of tying tax benefits to day care expenses often argue that, all other things being equal, a family that uses day care should pay less taxes than a family that does not use day care.

In making their case, day care proponents often cite examples such as: why should a traditional family making, say, $20,000 a year receive the same tax benefits available to a two-earner family whose $20,000 income is reduced by day care expenses? Or, why should a traditional family earning $20,000 a year receive the same tax benefits available to a single mother whose $20,000 income is reduced by day care expenses?

Whether intentional or not, these comparisons often obscure the real issue in question. The real issue here is not whether a family has two parents or one, two workers or one. If it were, one could easily ask why single parents that rely on extended family help for child care should be denied assistance given to other single parents—or why tag-team couples who stagger work schedules so that they can share childrearing responsibilities should be denied tax benefits extended to other two-earner families.

Likewise, the real issue is not how many hours of paid employment a family logs in the labor force—for there are some traditional families where the single breadwinner is employed more hours a week than the combined labor force participation of some two-earner families. And strictly linking tax benefits to the number of hours of wage labor would have the effect of penalizing the industrious single mother who, by "working smart," earns in 40 hours what a less industrious two-earner couple earns in 55 hours of wage labor.

The real issue, then, is whether or not government tax breaks should be tied to day care expenses. Day care proponents believe such a linkage is appropriate because day care users have less "ability to pay" taxes since part of their income is absorbed by day care expenses.

This argument appears reasonable until one considers that it could be used to justify a tax break for just about any expense. A taxpayer who eats at restaurants or calls out to Domino's could argue that he has less "ability to pay" taxes than a family that prepares its own meals. Moreover, a taxpayer who pays someone to cut his grass could argue that he has less "ability to pay" than a family that mows its own lawn.

Indeed, in extremis, this reasoning could be used to justify tax breaks for people who hire housekeepers, butlers, gardners, interior decorators, and chauffers—since there are some people who perform these services for themselves.

Thus, the "ability to pay" argument cannot alone justify linking tax benefits to day care expenses. Instead, day care proponents must also argue that paid forms of day care are superior to unpaid child care arrangements within a family. It is here that the case for day care tax benefits breaks down, for there is an absence of data to support this proposition. Indeed, the current debate among child development experts is not over whether or not non-familial group day care has an overall positive effect on child development; it is instead over whether or not such care has an overall negative effect on children.

Accordingly, there is no legitimate reason for linking tax benefits to day care expenses. And this fact becomes clearer when one considers an exceptional case like this one:

Several months ago, a woman working in the U.S. Commerce Department became pregnant. Like many in her situation, she spent much of her pregnancy weighing the pros and cons of caring for her own child after the baby was born. When the baby was born, she and her husband learned that the boy had Down's Syndrome—a fact which strengthened this woman's resolve to devote herself full-time to the task of raising her child. Had she and her husband opted to place their child in the care of a paid caretaker, the federal government would have rewarded their decision by offering them a generous tax benefit for day care expenses. But since she decided to care for the child herself, she is entitled to no similar tax credit. Indeed, the taxes her family pays help subsidize the day care costs of other families.

CONCLUSION

It is a lamentable fact of modern life that not all parents enjoy the freedom to provide primary care for their own children—or live close enough to their parents or other relatives that they can rely on extended family assistance. But public policies that skew benefits in favor of paid day care only serve to increase the number of families that lose this freedom. For as the ol' cliche goes, you get less of what you tax and more of what you subsidize.

Thus, when the House considers child care legislation again this year, it should remedy the tax bias against families that care for their own children by ensuring that all families at any given income level receive the same tax benefits for children—irrespective of whether or not they have day care expenses.

To be sure, such a policy would help mothers who are at home full time with their children—including those who are taking parental leave from their jobs. But tax credits built on a level playing field would also help a number of single mothers, mommy trackers, Mr. Moms, and family day care users and providers.

Moreover, there is nothing which says that legislation that eliminates tax discrimination against families that care for their own children cannot also extend significant assistance to families that use paid day care. Indeed, the most attractive policy proposal is one which sets new credit levels high enough so that all families can benefit significantly.

It is right and appropriate for public policymakers to be concerned about families that use paid day care because they have no other choice. But it is also right and appropriate for public policymakers to be concerned about families that make economic sacrifices to care for their own children. Certainly, all such sacrifices are not as heroic as the mother of the Down's baby or as challenging as the tag-team schedule jugglers. But they are valuable, because every child is valuable.

WILLIAM R. MATTOX, Jr.,
*Director of Policy Analysis.*

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WASHINGTON, DC, *August 3, 1992.*

DEAR SENATOR: On August 4, an amendment will be introduced on the floor of the Senate to H.R. 11, the Urban Aid Package, to expand the tax deduction for one-time adoption expenses to *all* adoptive families. We encourage you to vote *YES* on "The Fairness for Adopting Families" amendment.

Currently, the average fees for adopting a child from a non-governmental agency is between $8,000 and $15,0000—a lot of money for most Americans. Agencies try to minimize the costs to adoptive families through fundraising activities; however, as the costs of medical care, housing, etc. increase for pregnant women, much of the cost must be passed on to the adoptive families.

At the same time, while most Americans who give birth to children have insurance to cover the prenatal and delivery costs—adoptive families have no such benefit. When a child comes into a family through birth, the family is allowed to deduct the medical expenses from their income taxes—adoptive families have no such benefit.

Please vote Yes on the "Fairness for Adopting Families" amendment to provide a $3,000 tax deduction to *all* adoptive families to relieve some of the financial burden.

Sincerely,

MARY BETH SEADER,
*Vice President.*

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[From National Council for Adoption]

VOTE YES ON AMENDMENT TO H.R. 11 "THE URBAN AID BILL" TO PROVIDE TAX "FAIRNESS FOR ALL ADOPTING FAMILIES"

"Every child in need of a family is a child with a special need."

Currently, all parents who form their families through birth are allowed to deduct the costs of the child joining the family (i.e., medical expenses for fertility services, prenatal and delivery) from their income taxes. Adopting families have no such recourse. In addition, most families have medical insurance which covers all or part of the prenatal and delivery costs of the child born to them. No similar system is available for adopting families. Therefore, the financial costs of adopting a child is generally a much greater strain on a family than giving birth.

It has been argued that tax relief should only be available to families who adopt "children with special needs" because the government has an interest in reducing the rolls of children in foster care. This argument ignores the equity issue of adoptive families should be treated the same as families formed through birth in all government activities, including taxation. It also does not address the limitations on the definition of a "Child with special needs."

H.R. 11 provides a tax deduction of $3,000 for families who adopt a "child with special needs". Most people assume that the definition of a "child with special needs" is a child with a physical, emotional or mental disability, an older child, or a child who is a member of a minority race or ethnic group or part of a sibling group which must be placed together. H.R. 11 leaves the definition of a "child with special needs" to the state.

In some states a "child with special needs" is only a child with the characteristics described above who comes from the public foster care system and is adopted from the public, tax supported agency. Therefore a child with a disability who is placed from a voluntary charitable agency will not be eligible for the tax deduction.

Some states include only children who are eligible for Title IV-E reimbursement in their definition of "children with special needs.". Title IV-E reimbursement is based on the financial situation of the biological family. Therefore if a child a born with a disability to a middle class parent and place for adoption, the adoptive parents will not able to claim the tax deduction, even though the child's biological parent's income has no relation to the express incurred by the adoptive family.

The result of this discriminatory practice of excluding non-governmental adoptions from tax deductions will be that more children will enter the pubic child welfare system so that tax deductions are available, further increasing the case loads of the already overburdened system. Children will be denied adoption because of this limitation.

It must be remembered that families who will be eligible for this limited tax deduction are generally adopting children from tax supported public agencies. Generally these adoptions have very low, if any fees, for the adopting family and many of these families receive a subsidy for the special needs of the children. Therefore, the greatest financial burden for the actual adoption is not on the families who adopt "children with special needs" but those who adopt from the voluntary sector.

Because there is little government support for adoption related activities in the voluntary sector, the average fees which must be passed on to adopting families range from $8,000 to $20,000. These fees exclude many competent parents who could afford to raise a child, but who do not have the resources for one-time adoption expenses. Minority families have the most difficult time paying fees for service. The result is that it is difficult to find families for minority infants, because they cannot afford to come to private agencies (even when they reduce their fees). Most infants are placed for adoption through the voluntary sector, but if families cannot be found when the child is an infant, he will become a child with a special need. Is that the goal of this tax benefit?

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MARYLAND COALITION FOR ADOPTION,
*July 31, 1992.*

DEAR SENATOR: All children of adoption have special needs.

The Maryland Coalition for Adoption strongly supports Senator Hatch's Amendment to Senate Bill #709. This Amendment provides tax fairness to all adoptive families.

Special needs, status, as the major criteria for determining tax credit for adoptive families, is simply ineffective. Special needs is defined in many ways by different states, and often too narrowly. All adoptive families incur significant expenses in offering their home and hearts to an adoptive child.

Please lend your support to approving this Amendment and extending badly needed tax fairness to all families who adopt children in need of homes.

Sincerely,

PAUL DENHALTER,
*Maryland Coalition for Adoption.*

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ADOPTIVE FAMILIES OF AMERICA, INC.,
*Minneapolis, MN, August 3, 1992.*

DEAR SENATOR: On behalf of the 15,000 adoptive families across the country who are members of Adoptive Families of America, I urge your support for a tax deduction for all adoptive families through the Fairness for Adopting Families Amendment.

For many years adoptive families have been told they do not deserve help in the forming of their families, that they will adopt anyway, whether there is tax help to offset the cost of adoption or not. But the real issue here is the children, and especially children with special needs.

All children without homes are children with special needs, whether they are healthy, white infants, members of minority or sibling groups, or children with mental, physical or emotional disabilities. These children deserve a home. And they deserve the best care possible in that home.

But a family starting out on shaky financial ground is a family who may find it dif-

ficult to give the best care possible to their newly-adopted child. Everyday I hear from families, who are taking out loans, using up credit card balances, and placing second mortgages on their homes just to form a family. These are not wealthy people. They are middle and working class people, hard-working Americans.

But, in order to afford the costs of the adoption of a child, they have put themselves deeply into debt. This debt puts parent and child at great financial risk. It is only fair and equitable to treat these families the same as families who give birth. Birth families have insurance coverage to provide for the costs of family forming, federal aid if they meet the eligibility standards, or, if the expenses of the birth are great enough, a tax deduction for the medical expenses associated with the birth. Adoptive families have no such assistance.

I also hear many cases of children falling through the cracks of the IVe adoption assistance program. These are children assumed to have federal or state adoption assistance. But they do not. The costs of their adoptions are equal to those of a healthy, white infant or a child from overseas.

These children include: minority children and sibling groups, who are denied eligibility based on arbitrary state rules; children, whose birth mother was homeless or who were placed through private agencies, and therefore are not considered "children with special needs" by a system full of loopholes; and even children with disabilities such as spinal bifida, Down's Syndrome, and autism, who have been turned away from federal help, because of technicalities in their eligibility.

The only way for these children and the families who adopt them to receive any help with adoption costs is through the Fairness for Adopting Families Amendment. A $5000 tax deduction for adoption expenses would go a long way to helping these families provide for the children they worked so hard to bring into their family.

For fairness, for equity, for the children who need homes, I urge you to support the Fairness for Adopting Families Act.

Sincerely,

STEVE HUMERICKHOUSE,
*Legislative Affairs.*

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SUPPORT SENATOR CRAIG'S AMENDMENT TO DECREASE THE BURDEN ON ADOPTIVE PARENTS

Senator Larry Craig (R–ID) will offer to H.R. 11 an amendment which provides a tax deduction for adoption expenses. He and Senator Orrin Hatch (R–UT) have worked tirelessly on behalf of parents who wish to adopt. This represents one of their many efforts.

SUMMARY

1. The amendment will provide an above-the-line deduction for adoption expenses up to $5,000, which would be phased out for taxpayers with adjusted gross incomes from $80,000 to $90,000. The deduction could not be used for costs of an adoption in the case of an individual who adopts the child of the individual's spouse.

2. Excludes from employee's income adoption expenses paid by an employer up to $5,000.

3. Treats employer contributions to an adoption expense plan as an ordinary and necessary business expense.

4. Effective date: applies to qualified adoption expenses incurred in taxable years beginning after December 31, 1992.

5. The amendment expands on the provision in the U.S. Senate Finance Committee's mark that provides for a deduction of up to $3,000 for adopting a special needs child.

ENDORSEMENT

The Family Research Council wholeheartedly supports the efforts of Senators Craig and Hatch to provide a deduction for families who are trying to adopt, no matter the circumstances or condition of the adoptive child. The Council urges support of this amendment.

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EXPLANATION OF THE CRAIG-HATCH ADOPTION AND YOUNG CHILD PRO-FAMILY AMENDMENT TO H.R. 11

(Revised September 25, 1992)

Summary: The Craig-Hatch amendment offers a larger adoption deduction, and makes it available to more families, than H.R. 11. It offers twelve times more tax relief to more working poor families with young children than H.R. 11. Rather than settle for ½ of every other slice, the Craig-Hatch amendment provides families with the whole loaf.

(1) Deduction for Adoption Expenses:

H.R. 11 as reported by Senate Finance provides a deduction of up to $3,000 for expenses related to "special needs" adoptions; "special needs" are defined by state laws, which would result in inconsistent, to the point of capricious, application of the deduction.

The Craig-Hatch amendment would provide a deduction of up to $5,000 for expenses related to any adoption (except for adopting the child of one's spouse). The amendment would exclude from an employee's income adoption expenses of up to $5,000 paid by an employer. Deductibility would be phased out for taxpayers with adjusted gross incomes (AGI) between $80,000 and $90,000 (except for special needs adoptions). Double benefits would not be allowed.

(2) Increasing the Supplemental Young Child Credit:

Current Law: The child care provisions in the 1990 Reconciliation Act created the Supplemental Young Child Credit (SYCC), a new component of the Earned Income Tax Credit (EITC). A low-income family with a child under age 1 and at least one parent in the paid work force can receive a credit of up to 5% of the first $7,520 of income. In 1992, the maximum credit is $376. The EITC and the SYCC phase out for incomes between $11,840 and $22,370, with this bracket adjusted annually for inflation.

The Craig-Hatch amendment would increase the SYCC to 7.5 from its current rate of 5 percent.

(3) Revenue Offset: Limit the amount of the Dependent Care Tax Credit that can be claimed by high-income households:

Current Law/Background: Current DCTC rates already include one phase-down bracket. A 30 percent credit against expenses is allowed for taxpayers whose AGI is $10,000 or less. The credit phases down to 20% for taxpayers with AGI above $28,000. The credit can be claimed against maximum expenses of $2,400 for one child or $4,800 for two or more. The DCTC is non-refundable and is based on documented (including the provider's tax ID number), out-of-pocket, formal, day care expenses; in 2-parent households, both parents must be employed or seeking employment. (In some cases, a dependent other than a minor child may qualify.)

The Craig-Hatch amendment would phase down the DCTC again at the high end of the income scale, beginning at $80,000 AGI and phasing down to a 10 percent credit by $90,000. This would be consistent with the current progressivity at the lower end of the AGI scale and would recognize that, like most essentials of life, dependent care costs consume a larger proportion of income for low- and middle-income families.

(4) Revenue Offset: Strike HR 11's Repeal of EITC-DCTC Election:

Current Law: A family that otherwise would qualify for both the SYCC and the Dependent Care Tax Credit (DCTC) must elect which credit to claim with regard to a child under age 1.

HR 11 as reported by Senate Finance would repeal the 1990 requirement of an election between the SYCC and the DCTC and would allow families that meet the qualifications for both credits to claim both.

The Craig-Hatch amendment would strike the election-repeal in HR 11, thereby maintaining current law in this area.

Increasing the SYCC is preferable to expanding eligibility for the DCTC.

(1) The DCTC is essentially a middle-to-upper class tax break; few working poor families can afford the expensive, documental, formal day care necessary to claim the DCTC.

(2) In half of all families with newborns, one parent takes at least a year off from paid work to stay at home. The large majority of families want one parent to be able to stay at home for the first year of a newborn's life, recognizing that the first year is a critical, formative time. The DCTC discriminates against traditional families, and also excludes those who use family caregivers and other informal babysitting arrangements.

(3) The SYCC is non-discriminatory, equally benefitting traditional and non-traditional families.

(4) The SYCC is simpler to qualify for and to claim, since it is merely a component of the EITC for which the family already qualifies and also doesn't require the extensive documentation and formal day care arrangements needed to claim the DCTC.

*Cost summary (over 5 years)*

| | *Millions* |
|---|---|
| Full $5,000 adoption deduction (net above HR 11) | $63 |
| Increasing Suppl. Young Child Credit to 7.5 percent | 599 |
| Total revenue costs | 662 |
| Savings from maintaining SYCC/DCTC election status quo | 51 |
| Savings from upper-end phase-down of DCTC | 673 |
| Total revenue-saving offsets | 724 |
| Net savings from amendment | 62 |

Source: Joint Tax Committee.

Mr. CRAIG. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes 8 seconds remaining.

Who yields time?

Mr. BENTSEN. Mr. President, I yield 5 minutes to myself.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, I am a strong advocate of adoption. I have been the cochairman of the congressional coalition for adoption in the Congress for several years, and most importantly, my wife and I have a chosen child—I frankly prefer that term to adopted child. And I know the love

that we have for that child. And I want to encourage adoption. But I believe we ought to use the limited resources that we have to provide an extra incentive to those who have the courage and the compassion to adopt a special needs child.

Who are these special needs children whose adoption is covered by the mark? They include minorities, the physically and mentally handicapped, and any group of siblings that must be adopted together. That term also includes children who are too old for a market that caters to infants. Nobody knows the exact numbers, but according to some estimates, special needs children account for nearly 60 percent of all those eligible for adoption. According to the national committee for adoption, there were more than 60,000 adoptions annually. However, each year there are at least 36,000 special needs children in the foster care system—on average, only 13,500 of those children can find families.

I remember a cover story in Time magazine a few years ago that highlighted some of the problems facing special needs children. This story told us that there are more than 60,000 adoptions a year but points out that "the figure would be much higher were it not for a great and tragic irony: while adoptive parents will literally go to the ends of the Earth to find healthy white, or perhaps Asian, infants, thousands of other American youngsters who are older or black or handicapped go begging for homes."

This is a question of which adoptions we want to subsidize. One problem I am particularly concerned about is the growing number of infants born with the AIDS virus or addicted to crack cocaine.

How many of you have been there to see the boarder babies, to see some of them no longer than your land; nobody will claim them and they stay there. There are children abandoned by their birth parents, or removed from those parents for their own safety.

Who is going to take care of these children? The provision in the Finance Committee bill would provide a subsidy to families that adopt these children. We have a serious problem. By 1993, some estimate that as many as 20,000 babies will be born with the AIDS virus. A $3,000 deduction is not going to solve the problem but it is a small step in the right direction.

Meanwhile, this amendment would provide a tax subsidy to the thousands of parents who are already on long waiting lists to adopt healthy children.

How many of you as Members have been asked by people who want to adopt a healthy, white child to get them on some kind of priority list so they can get that child? All of us have seen that I guess. I particularly have seen that because I have an adopted child and because I am cochairman of the adoption counsel. I commend the Senator for his strong advocacy on this issue. But we disagree on how our scarce resources should be used. We have to decide. Do we want the Federal Government to write checks to parents who are lined up, waiting for years, to adopt those infants who are already in such great demand? Or do we want to focus on the problems facing thousands of special needs children who are destined to bounce from foster home to foster home, or worse? Special needs children need our help.

That is why the President's budget recommends that we provide a deduction for expenses related to special needs children. The Budget states that:

In a number of cases the children are in foster care with prospective adoptive parents. The prospective parents would like to adopt the child formally, but find that to do so would impose a financial hardship. * * * Moreover, a deduction for special needs children may alert families who are hoping to adopt a child to the many form of assistance provided to families adopting a child with special needs.

There are a lot of issues on which I disagree with the President—but not on this one. I strongly agree with him. We both believe that America should provide a special inducement for those who have the courage to adopt special needs children.

If you get one with special needs—and I can tell you this one, too, because we have one of those children—the costs and sacrifices are enormous.

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

Who yields time?

Mr. CRAIG. I will yield 3 minutes to the Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah has 3 minutes.

Mr. HATCH. Mr. President, I appreciated the comments of the distinguished Senator from Texas. He is a great human being and I have a great deal of respect and affection for him. He is a very fine chairman of this committee.

Mr. President, I rise today as an original sponsor of the amendment now before the Senate. My colleague, Senator CRAIG, has discussed at some length the major provisions of this amendment. To summarize his explanation, this amendment contains four principle provisions.

First, it will provide an expanded deduction of up to $5,000 for expenses related to any adoption except for adopting the child of one's spouse. To that end, this amendment expands the limitation within H.R. 11 that limits the deduction of adoption expenses to families adopting special needs children.

Second, the amendment will exclude from an employee's income any adoption expenses, up to $5,000, that are paid for by the employee's employer. At the same time, employers will be able to take an expense deduction for those payments.

Third, the amendment increases the amount of the supplemental young child credit from 5 to 7.5 percent.

Finally, the amendment reverses the provision in H.R. 11 that will allow taxpayers to take both the supplemental young child credit and the dependent child tax credit.

Since my able colleague has addressed the child care credit aspects of the amendment, I would like to focus the balance of my remarks on the adoption expense deduction provisions of this amendment.

Mr. President, this amendment provides a $5,000 tax deduction for parents who adopt children. The deduction is desperately needed by families who are sacrificing to finance the ever-increasing costs of adopting a child. These families need our help and encouragement. The deduction is also desperately needed by children who are waiting to be adopted.

I am aware that the bill before us includes a tax deduction for the expenses of adopting a special needs child. I strongly support this deduction and I applaud the chairman of the Finance Committee for including this provision in the bill. This amendment supplements the H.R. 11 adoption deduction by allowing all children who are awaiting adoption and their future families to get this benefit. We must support all legal adoptions in America. While the deduction for special needs adoption is a very necessary and positive move, it is far from adequate.

Mr. President, our policy must be that all children awaiting adoption are special, regardless of sex, race, age, sibling size, or disability. There is a great demand for the adoption of healthy infants. Families hoping to adopt one of these children often have to wait for years to get their much longed-for baby. Other hopeful families wait for years, only to receive the heartbreaking news that they do not qualify to become adoptive parents for one reason or another. At the same time this tragedy is occurring, another, even sadder tragedy is also taking place. Unfortunately, children waiting for adoption who are not healthy white infants often do not enjoy the same popularity among adopting parents. It is estimated by the National Committee for Adoption that there are 36,000 children in this Nation who are waiting to be adopted. These children are, for the most part, older children, children with mental or physical disabilities, sibling children who must be adopted together, or minority children. Many of these children are classified as special needs children, and thus receive State and Federal assistance. But far too many other children fall through the various cracks and loopholes in the special needs definitions. This is a major reason why we need this amendment.

The unfortunate truth is that there is not a simple line between popular,

healthy infants and other, less adoptable children. Because of variations and technicalities in the assorted state definitions of special needs children, many children do not qualify for the adoption tax deduction. Or, a child who qualifies in one State may not qualify in another.

This capriciousness is not good public policy, Mr. President. We cannot deny any eligible children the very assistance that may help them get adopted.

This leads to another reason this amendment is needed: fairness. It is simply not fair for us to provide a tax deduction for special needs adoptions only. Adoptions are expensive. In fact, the National Committee for Adoption has found that the actual costs connected with a legal adoption can exceed $15,000. The average costs for nonspecial needs adoptions are between $7,000 and $12,000. These high amounts exclude many wonderful families from adoption, simply because of inadequate incomes. I believe that family wealth should not be a factor in adopting a child. My amendment does not help those families who can easily afford the high costs of adoptions. It contains an income limitation that phases the deduction out over the adjusted gross income range of $80,000 to $90,000. With this amendment, we will be encouraging the adoption of all children, and we will be helping those families who wish to adopt and are least able to pay the high costs of adoption.

This amendment provides that as long as an adoption is in accordance with State and local laws, the tax deduction for unreimbursed adoption expenses would be available. Each legal adoption is socially beneficial. Each adopting family deserves and needs our support. This is true whether the child is a healthy infant, a child with special needs, or a child from another country.

Mr. President, the simplest and fairest solution to the problems I have identified is a tax deduction. I strongly urge my colleagues to support this amendment. We are representatives of a society that professes a commitment to ensure the success of the family. The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. All adoption is good, not just the adoption of children with special needs. Among other benefits, adoption—including subsidized adoption—is much less expensive than public social services. This amendment will greatly benefit not only children and families, but society as a whole. I urge my colleagues to support this amendment.

Mr. HATCH. Mr. President, some opponents of this amendment have argued that the various State definitions of special needs adequately include the adopting families of children with disabilities. Tragically, this is far from true.

This past week I had a very special visitor in my office. His name is Phillip Tabar, and his story graphically illustrates the desperate need we have to change the definition of a special needs child.

You see, Mr. President, Phillip's biological mother was a heroin addict. As a result of his mother's addiction, Phillip will never know the life of a ordinary child. This 6-year-old is severely brain damaged, completely blind, and suffers from Cerebral Palsy. He has two dislocated hips and also suffers from continual epileptic seizures that cannot be treated with drugs. Phillip cannot walk or talk and will remain at the development level of a 1- to 3-month-old child for the rest of his life. He is totally dependent on his adoptive parents for care.

Yet Phillip is very much loved by his adoptive parents and siblings and adds a unique and special perspective to their family. In fact, the challenges and disabilities that make up Phillip's life are also the very elements that make him such a valued member of the Tabar family.

You would think, Mr. President, that given Phillip's history that his parents would be automatic candidates for the special needs adoption expense credit that H.R. 11 offers. Sadly, nothing could be further from the truth. Because of technicalities in the State laws that covered Phillip's adoption, he failed to qualify as a special needs adoptive child. His parents have had to shoulder alone the costs of adopting Phillip along with the other costs associated with his special needs.

Phillip's case is, admittedly, an extreme one. Yet he and his adoptive family represent hundreds of families throughout the United States. These families are penalized for adopting children who otherwise may not receive the love and nurturing of a family environment. It is this fact that strikes to the heart of the matter. The reality is that every child deserves the same kind of love and attention that Phillip receives from his adoptive family. The reality is that the prohibitive costs of adoption often deter families from adopting any children, let alone supposed special needs children like Phillip.

The time has come for us to act. Mr. President, we need to make sure that any family that wants to adopt a child will not be deterred simply because of the cost involved.

It must be our policy that all children awaiting adoption are special, regardless of sex, race, age, religion, sibling size or disability. Why is this provision necessary? We need this amendment because we cannot let even one child remain unadopted because he or she does not fit someone's definition of special needs. Under the current proposal, a State would have the authority to define when a child fits the special needs category.

The children waiting for adoption need our support, not regulatory hassles. The States will all have their own definitions of what determines whether a child is a special needs child. A child who in one State may be classified as a special needs child may not be so classified in another. Therefore, under the adoption expense deduction included in the reconciliation bill, a child's future may in part be decided by the State in which he or she happens to be residing. This is not good public policy, Mr. President. We cannot allow any child to be left unadopted because some bureaucrat in one of the States made a determination that he or she does not meet that State's definition of a special needs child. We cannot for 1 minute let a child or an adopting family think that all children waiting for adoption are not special needs children. A child in New York awaiting adoption should be as special as a child waiting in Utah. With this amendment, we will be encouraging the adoption of all children, and we will be sending the message to America that we support all families—whether formed biologically or by adoption.

Mr. President, we need to send the message to America now that the Senate believes that all children waiting for adoption are special. I want the adopting families in this country to know that all children waiting for adoption are special and I want the children to know it. A black infant waiting for adoption in New Jersey is a special needs child, even if that State does not define him or her as a special needs child. An older child lingering in foster care in New York City or Los Angeles is just as special as a newborn child born in Utah or Alabama. Let us not adopt a policy where we may, in fact, allow a newborn to linger in foster care until that child is old enough to fit the specials needs definition. How can we discriminate against any child waiting for adoption? How can we tell a 4-year-old child that he or she is not a special needs child until he or she turns 5?

A child waiting for adoption in Chicago has just as much right to our support as a child in Wyoming or San Francisco, regardless of whether that child is black, white, infant, older, part of a sibling group, or handicapped. We cannot arbitrarily support some children and not others. We must support all legal adoptions.

Mr. President, this amendment has received a strong endorsement from many groups and organizations in the adoption community. The deduction for all adoptions, instead of just special needs adoptions, has been endorsed by the following:

National Committee for Adoption Resolve, Inc;

Adoptive Families of America Mid-South Families Through Adoption;

North American Council on Adoptable Children;

Native American Adoption Resource Exchange;

National Adoption Center Committee for Single Adoptive Parents;

American Public Welfare Association;

Maryland Adoption Resource Exchange, Adoption Exchange Association;

National Resource Center for Special Needs Adoption;

Child Welfare Institute;

New York State Citizens Coalition for Children;

African American Children's Group;

Santa Fe NAACP;

Rainbow Families Adoption Support Group; and

The Adoption Defense Fund.

Consider the letter sent to me from the African American Children's Group in Santa Fe, NM. The letter reads, in part;

Most special needs children already having their adoptions subsidized by their states so a tax deduction would not do those families any good. Many of America's black infants will fall through the cracks if this bill is accepted. Most black infants are placed through private agencies. Many of these infants will wait a year or two going from one foster home to another until they will be old enough to be classified as special needs. * * * Finding homes for black infants is the next most serious problem facing domestic placements. Black, interracial and white families who adopt these children need your support. * * *

Also consider the letter sent to me from Resolve, Inc.:

DEAR SENATOR HATCH: On behalf of the 20,000 members of Resolve—the national organization offering education, support and referral to couples dealing with infertility—I would like to thank you for your leadership in working for the Fairness for Adopting Families Act and share with you our concern that it may be cast aside in favor of new legislation proposed by President Bush.

While we appreciate the President's support for adoption, we are concerned that his compromise proposal has several built in problems, not the least of which, from our view, is the fact that it ignores the financial concerns of thousands of families who adopt infants domestically or both babies and older children internationally and that it provides at least one very obvious loophole that does not serve the best interests of waiting children in allowing the states to exclude children by varying their definitions of what constitutes "special needs."

We wish to go on record as continuing to be strongly in support of The Fairness for Adoption Families Act as they have already been drafted and to urge you to push for the passage of the Fairness for Adopting Families Act in floor amendments if necessary.

Thank you for your concern for families formed by adoption!

Sincerely yours,

PATRICIA IRWIN JOHNSTON,
*Chairman,*
*National Board of Directors.*

Mr. President, this amendment will do a great deal to help children of racial or ethnic background who are awaiting adoption. Currently, healthy babies who are of minority racial or ethnic background frequently wait for years in foster care simply because of economic factors. Many of the families who want to adopt minority babies have very modest incomes and need tax breaks to help them form families and offer permanent loving homes to these children. Do we want to deny these children our support because they are healthy or under five years of age?

I strongly urge my colleagues to support this amendment. We are representatives of a society that professes a commitment to ensure the success of the family. The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. All adoption is good, not just the adoption of children arbitrarily defined as having special needs. This amendment will greatly benefit not only children and families but society as a whole.

We ought to do everything we possibly can to encourage adoption. We ought to close these loopholes. This approach, of which I am a principal cosponsor, I think is an intelligent, well thought out, compassionate, decent, honorable approach.

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

The time of the Senator from Idaho has expired.

The Senator from Texas.

Mr. BENTSEN. Mr. President, I had originally stated that we would have a 30-minute time agreement, as the sponsors had requested. But I am looking at the number of people that feel very passionately about this issue.

At the request of the sponsors of the amendment, I ask unanimous consent that we add 10 minutes to each side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, 10 minutes will be added to each side.

The Senator from Idaho now has 10 minutes and the Senator from Texas has 19 minutes.

Mr. BENTSEN. I yield 5 minutes to the chairman of the Children's Commission, the Senator from West Virginia.

Mr. ROCKEFELLER. I thank my chairman of the Senate Finance Committee and the author of the legislation which created the Children's Committee.

The earned income tax credit, Mr. President, is a fundamental part of the four-part income security package. The earned income tax credit—to which this amendment, the Craig amendment, is a dagger in the heart; although its purposes are very, very well intentioned—that EITC credit is profamily, is prowork, proresponsibility, and it works.

To promote the fundamental principles of hard work and responsibility, Federal policy should provide support to working parents—that is what the EITC is all about—especially those at the low end of the wage scale who are struggling to work, and therefore should try to encourage them to work instead of go on welfare.

The earned income tax credit is a strong incentive for working families. It is refundable. It has bipartisan support. It works.

On the Children's Commission, the Bush administration members of the Children's Commission all voted for this and do not want to see this compromised.

In 1991, almost 14 million families received more than $11 billion thanks to the earned income tax credit, which this amendment seeks to, although well-intentioned, nevertheless undercut financially.

These are parents, Mr. President, who play by the rules. They work hard and struggle day in and day out to pay the rent, to buy groceries, and to raise their children. They could go on welfare, many of them. The point of this is to encourage them not to and it works.

Such working families deserve our support and they deserve our admiration. We should be working to help them and to make things easier for them.

The tax package on the Senate floor includes an important measure to remove something called the interaction between the EITC, earned income tax credit, and other tax credits for children. This is an essential change, getting rid of the interaction.

Simplification of this earned income tax credit is absolutely vital.

I am holding here, Mr. President, what people have to try to read to compute their tax forms, people that sometimes have not been used to paying taxes, to try to figure out how they are going to do this deal, which credit they are going to take.

And then there is a 28-page IRS instruction booklet on how to do it. People cannot do this. Millions of working families are avoiding and not getting this earned income tax credit because of the overwhelming complications which are built into it. And in fact the administration, the Bush administration, this year came before the Finance Committee, Secretary Gideon, and said, "The interaction rules"—which is what is at heart here—"create complexity in the EITC and will hinder compliance. Some taxpayers must complete numerous steps in order to calculate their credit amounts and tax liabilities."

They do not want to see this happen. This is the administration.

Unless the form is simple and clear, many parents who deserve the credit will not apply because they cannot understand the form. The current EITC has complicated interaction and requires parents to make a series of calculations in order to determine which credit they should take. And it is almost impossible to fill out. So many

families give up and they ask the IRS to calculate the basic credit for them.

Thanks to the congressional interest and under the leadership of Senator KOHL from Wisconsin, the IRS has agreed to continue to calculate the EITC this year for families who could not handle the form, millions of families. But they did not promise to do so next year.

So this again could result in thousands of families, millions of families, failing to receive the income security Congress intended for hard-working, low-income people who are playing by the rules.

Requiring the IRS to do the work is not the answer. The answer is simplification of the earned income tax credit by removing the interactions, which Senator BENTSEN has done and which the Craig amendment threatens right at the heart.

We need to reduce the paperwork burdens for American taxpayers, and especially for those struggling in low-wage jobs, with small children. The legislation marked up by the Senate Finance Committee made progress in, in fact, simplifying the tax credit. I hope that Senators will vote to table the Craig amendment.

The PRESIDING OFFICER (Mr. BRYAN). The Senator's time has expired. Who yields time?

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from New Jersey who has substantial interest in this issue and has worked on it.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. BRADLEY. Mr. President, I oppose this amendment for two reasons. First, I do not know whether it is intentional or whether it is inadvertent, but the amendment adds great complexity to the earned income tax credit.

I wonder if the proponents of the measure have ever taken a look at the EITC form. It is a nightmare of complexity, a nightmare. First, taxpayers have to figure out whether they are even eligible for the credit: whether they have a qualifying child, whether they have earned income under $21,240, whether they have claimed income earned in foreign countries. Then taxpayers have to establish whether they received any nontaxable earned income, or paid for health insurance for their child. Then taxpayers must calculate their basic credit based on a declining percentage of earned income. Then they have to calculate the basic credit again as a percentage of adjusted gross income.

Next, they have to calculate their health insurance credit. Of course, they have to compare their out-of-pocket expenses against a separate table, based on gross income. That is, of course, if they have not fallen afoul of the interaction rules. Then they calculate their young child supplement. Of course, there are two different credit tables, one based on gross income and the other on earned income.

Let us not forget the interaction rules. Heaven forbid that we let a poor working family get an extra $350 to take care of their infant child. The complexity of the earned income tax credit discourages people from getting what they deserve.

Because of the complexity, GAO has warned that as many as 3 million families in America may fail to get the earned income credit; 3 million families, because of this incredible complexity. This form, that form, this table, that table, for those who are making $12,000, $13,000, $15,000 a year.

How can we pass a bill that is labeled, I think perhaps erroneously, an urban aid bill—how can we pass it without rectifying this glaring shortcoming in the law? It is beyond me. But this amendment does not simplify the EITC. It does not make it easier for those 3 million families to get the credit to which they are entitled. It is simply another roadblock in their way.

I urge the proponents of the amendment, not only to listen to this argument, but to listen to the administration's testimony before the Finance Committee, as the distinguished Senator from West Virginia quoted. The administration said, "Interaction rules create complexity in the EITC, and will hinder compliance."

So my first objection to this amendment is that it will make it more difficult for poor families in this country who are eligible for the EITC to receive the EITC.

My second objection is the way this amendment is paid for. It reduces the dependent care tax credit for women earning more than $90,000. It says that if you are a financially successful working mother, then you can deduct less of the costs of your child care than other taxpayers. If you are a financially successful working mother—if you are a lawyer, if you are a Senate staff member, if you work at a television station—if you are a successful working mother and you need child care for your child while you are working, under this amendment you deduct less, not more, than someone who is not quite as successful as you are. Instead of a 20-percent credit against child care expenses, you get 10 percent.

If we are going to say to working women that they cannot take the full tax credit if they are successful, I wonder if we would apply that logic to the travel and entertainment deduction? For example, why not tell the lobbyists in town that if they make more than $100,000 that they cannot deduct as much as somebody who makes less for their lunches and hotels and convention holidays.

This amendment should be rejected on the grounds of increasing the complexity of the EITC and on the grounds of the way it is paid for—by penalizing successful working women.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. CRAIG. Mr. President, I yield 5 minutes to the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, first of all let me commend Senator BENTSEN for his statement. I think it takes a special amount of courage and commitment and love to adopt a child. And it takes an extraordinary amount of those qualities to adopt a special needs child.

We talk about the need for Government to pick up the pieces of broken families, the problems in society—and broken children. If more people had the wherewithal and, more important, the commitment to reach out and help those most needy in society, we would not have to debate the inability of Government to fund and expand and provide help for so many in our society. So I commend the senior Senator from Texas and his wife and family for their commitment to that.

By the same token, because it is important to support and encourage and provide incentives for those who adopt special needs children, that does not mean we should not provide some assistance to those who adopt nonspecial needs children. I think adoption of children, both special needs and nonspecial needs, is a worthy goal and something we ought to provide incentives for, particularly at a time like this when the costs of adoption and the costs of rearing children in today's society are so great.

So the Craig-Hatch amendment does that. It provides extra help and extra incentives and extra encouragement to those who will reach out and adopt children that need families.

This amendment provides a greater adoption deduction than that contained in H.R. 11 which will cover related expenses up to $5,000 for any adoptions, including special needs adoptions.

We all know that adoption is one of the main alternatives to abortion, yet certain legal and financial barriers to adoptions exist in our Tax Code.

This is especially so in the case of special needs adoptions where parents are often forced to bear the entire health costs of the child without health insurance because of preexisting conditions.

With respect to the adoption of healthy newborns, the demand is so high that in private adoptions the cost often exceeds $20,000. If these children are not adopted, they will likely end up in the foster care system which is already overburdened. Over 375,000 children in foster care are legally available for adoption. Most of these children have special needs.

This amendment would be one way of addressing at least the financial barriers to adoption. In the past the Tax Code has contained a deduction for special needs adoption. It is time to restore and expand this deduction.

It is clear that our Tax Code over the years have not focused on the family and not provided families who are rearing children, whether adopted or otherwise, with the wherewithal and the support that it once did. Back in the early 1940's and 1050's, when Congress first adopted the personal exemption, it was geared toward roughly providing a significant amount of the costs of rearing a child.

We all know over the years that the personal exemption did not keep pace with inflation and the cost of living. Until in the mid-1980's we had a personal exemption currently at the level of $1,000 per dependent. The indexed cost of the then $600 exemption would have been significantly more than that. Many estimate it at $5,000 or $6,000. In the 1986 tax act we doubled that personal exemption.

Many said it could not be done. It was done because we reordered priorities within the Tax Code. We began to place a value on the family and on rearing children. Many of us have supported an effort to increase the personal exemption significantly more than the President's $2,000 level.

Again, it is a matter of determining our priorities. The earned income tax credit was an effort to provide a similar type of assistance for those who fell in an income bracket that would not qualify for the personal income exemption. A young child credit was added to recognize that many families chose, in the interest of the child and also at great financial sacrifice, to have the mother stay at home with a newborn child, particularly that first critical year of new birth. Many families, again, at great personal financial sacrifice believed it was in the best interest of their child and the best interest of their family, and we wanted to recognize that. All Senator CRAIG is trying to say is that it is a worthy goal and we are tying to expand the help available to those families that make that choice.

You do not have to talk to too many child psychologists to understand the benefit of that. Yet, we recognize that many families do not have that option.

A 1989 Lou Harris poll found that 82 percent of the American public believes care of parents or other family members is superior to care by nonrelatives.

Yet, according to the Economic Policy Institute, declining wages, increased work hours and fewer vacations have created the overworked American of the 1990's.

The amount of time parents spend with children has dropped roughly 40 percent since 1965. According to a recent poll, Americans believe parents having less time to spend with their families as a result of economic pressures is the single most important reason for the decline in the family in our society.

Between 1969 and 1989, the annual time worked by an average American rose by 158 hours, adding nearly 1 month of work a year. The upward trend in work hours has been most pronounced for women, who have entered the work force in increasing numbers during the last two decades.

Young parents are putting in even more hours of work since 1969—241 more hours per year for mothers and 189 for fathers.

Total work for single, fully employed parents rose by 222 hours or 5.5 weeks per year between 1969 and 1989.

During the past decade family vacations shrank by 15 percent. This combination of personal exemption, earned income tax credit, young child credit and then adoption assistance I think is very important.

I wish we did not have to argue how we divide a very small piece of the pie among those four worthy goals. I wish we could look at it in the broader context of the entire Tax Code and make priority decisions and say the family is important, child rearing is important, let us provide those incentives.

I thank my friend for the additional minute. I wish we could look at the entire Tax Code and reorder some of those priorities so that we could accommodate the worthy goals outlined in those four basic programs that provide support.

And so, this is an attempt to do so. It is a small one, but it is a significant one because it recognizes that this Congress recognizes that families are important, that child rearing is important and that we ought to do what we can to assist this process. In expanding the "wee tot" tax credit, Congress is acknowledging that families who opt to have one parent stay at home with their child during its first year—the most formative for a child—should be entitled to an effective tax break.

I thank my friend for offering this amendment and for the time to speak this morning. I urge adoption of this amendment.

Mr. President, I yield back any time I might have remaining.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I yield 1 minute to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, the bill that we are debating is being touted as a relief for America's children and families. Mr. President, Senator CRAIG's amendment will help the neediest population of all in America: Children who have no families, children who for one reason or another are being moved from home to home, children who may never have lived in a stable environment in their entire lives. We have the opportunity to help place these children in loving and stable two-parent homes.

Mr. President, today there are approximately 450,000 children in the United States living in foster care. Of those 450,000, 40 percent have been in the system for 2 or more years, and 25 percent have been in foster care for at least 3 years. Yet, in 1990 there were only 51,000 nonrelated adoptions, a decrease of 38,000 adoptions per year since 1970.

My distinguished colleague from Idaho, Senator CRAIG, offers this amendment to create a $5,000 tax deduction for adoption expenses. This provision will help countless families who wish to adopt children. Whether they cannot have children of their own or whether they just wish to help children out of destructive situations, this tax deduction will help families afford the expenses of the adoption process. That process is not a cheap one. The cost to adopt an American child can run up to $15,000. For the adoption of a child from another country the expenses are often well above that figure. At the present time, there is little or no financial help available to cover adoption expenses.

In 1989, the median family income in the United States was $34,213. As you can see the cost of an adoption can have a significant effect on a family income. In order to afford the costs of starting or expanding a family through adoption many people have gone deeply into debt. They run up their credit cards, take out loans, some even have to take second mortgages on their homes.

As a father and grandfather, I know that it is not inexpensive for a couple who wish to start their family through the more conventional way to have their own natural child, but these costs are most frequently covered by insurance. Most birth parents will normally have to pay only a deductible and small copayment. Of the medical expenses not covered by a couple's insurance, most are tax deductible. Adoptive families do not have the luxury of any of these benefits. A $5,000 tax credit for adoption expenses is a fair and equitable way to help these families.

Adoptive families have expenses which birth parents do not have. They have finders' fees, placement fees, lawyers' fees, court costs, notary fees, and sometimes foster care expenses. If they are adopting a newborn, some plans require that the adoptive parents pay for the birth mother's hospital and medical expenses. If a family is adopting a child from another country it has to pay for airfare, passports, immigration fees, and a translator. If the couple is using a private adoption agency, there may be additional fees and expenses.

Currently, a couple receives little financial relief to cover expenses unless some services or money donated by private individuals or groups. As you can see, Mr. President, it is quite easy to run the cost of an adoption up to $15,000. A $5,000 deduction will go a long way toward providing relief to couples who wish to adopt a child.

This amendment will also expand relief to all families who adopt a nonrelated child. The current adoption tax credit provision in this bill is aimed at helping only children with special needs, which means physical or emotional difficulties, belong to sibling or minority groups or are older children. While this is a worthwhile effort, given that 60 percent of children in foster care are classified as children with special needs, the measure contains numerous cracks through which children can fall. The provision lists children with special needs as those who are eligible for reimbursement under the adoption assistance program under title 4–E of the Social Security Act. But some children with special needs are never listed as 4–E eligible. If a child has no public agency record, even though he or she fits all of the criteria to be listed with special needs, the child will not be eligible. If the child is placed by a private agency, he or she may not be 4–E eligible. If a child was once classified as special needs, is adopted, then is sent back to foster care, he or she may no longer be eligible. In fact, most children whose adoption placement has been disrupted with a family placement change are no longer eligible. Further, if the child's parents were migrant workers or moved around a lot, there would be little public agency records to support classification under 4–E.

Barb Holton of the Tressler Lutheran Services sums up the situation well, "In our view there are too many children who fall through the cracks. * * * In the end it is the child and the adoptive parents who 'pay' for the fall through the cracks." Mr. President, the only way to close the gaps in the current proposal and to treat all adoptive families equitably is to expand coverage to all nonrelated adoptions. Every child who is without a stable home, who does not have a loving and caring environment in which to live, who lives in poverty should receive our compassion and more importantly our support. I urge my colleagues to show their support for these needy children by supporting this amendment to provide a $5,000 tax credit for all nonrelated adoptions.

Mr. BENTSEN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Eight minutes, 7 seconds.

Mr. BENTSEN. And the proponents?

The PRESIDING OFFICER. Two minutes, seven seconds.

Mr. BENTSEN. I yield an additional 4 minutes to myself.

Mr. President, anyone thinking about voting for this amendment ought to look at the tax form and understand how complicated it is. We have a lot of complaints about it.

This form is filled out by the poorest individuals in our society and many of them have been forced to pay professional tax counselors. That has led the American Bar Association to state: "If there is any one provision where overwhelming complication exists for a class of people who are least able to deal with it, it is the EITC." I agree. This is another issue where the administration has really flipflopped: On September 10, 1991, in testimony before the Finance Committee, the Treasury Department stated:

> The interaction rules create complexity in the EITC and will hinder compliance. Some taxpayers must complete numerous steps in order to calculate their credit amount and their tax liabilities. For example, a taxpayer who is eligible for both the young child credit and the dependent care credit must calculate both credits to determine which one provides the greater benefit, and making this comparison, the taxpayer must also account for the fact that the dependent care credit is nonrefundable and thus of potentially less value than its face value. The interaction rules also limit the IRS's ability to compute the EITC for taxpayers.

Now the administration claims that they do not want to simplify the law. I think they had it right the first time. This amendment proposes that we should deny a credit to a dual-income family making less than $21,500 a year. There is nothing objectionable about a low-income family qualifying for both the wee tot credit and dependent care credit. The family with both parents working has a higher child care bill and generally higher expenses than a family with one parent working. So it makes sense to allow them both credits.

Mr. President, I spoke a moment earlier about all the people who are lined up to adopt healthy white babies. Thousands of them are lined up to adopt them, but the thousands of mentally handicapped babies, physically disabled babies, who are not chosen, who stand there and wait, they are transferred from one foster home to another. No one wants them. Once in a while, you will find someone compassionate enough to pay the extra love, care and attention for that child. I will tell you, a lot of extra expenses, too.

My wife and I have a chosen child. We also understand what it is to have handicapped grandchildren—and all the expenses and the cost and the care and the limitation on those parents on outside activities, the 24 hours a day, and the constant visits to the doctor to try to take care of those concerns. Those are the people we want to help. Those are the children we want to see are adopted and given the love and the attention that should be coming to them. That is what we have provided for in the Finance Committee bill before us.

I strongly urge that we defeat this amendment which was prepared by good people, caring people, but people who I do not think understand the additional burden and the problem of having children with disabilities.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, let me share in that passionate plea of the chairman of the committee, for I, too, am an adoptive parent. The chairman mentioned that he was cochair of the adoption caucus on the Hill. I happen to be the other cochair. I did not mention that this morning, but it just so happens that this law exempts me because those children whom I adopted, who carry my name and whom I love, are the children of my spouse and they are healthy and they are not special needs children.

But what we are talking about is spreading it for all. My amendment will not—will not—destroy the special needs child requirement. That is defined State law, not by H.R. 11, and in State law it is arbitrary as defined by the State itself. So while I hear my chairman, and I share in his passion, I suggest we do need to accommodate all children and all parents who are seeking to adopt children.

Now, as to the complication of the form itself, let me challenge the committee that they have not changed the form at all. People who are identifying with the supplemental youth credit still must be under the EITC. I am not complicating it; I am only simplifying a portion of what is already very, very complicated within the law.

I heard the Senator from New Jersey and the Senator from West Virginia speak of great complications. I challenge them to look at my amendment and overlay it on H.R. 11, and I think they would find it is, in fact, a simplification of an already complicated identification with the EITC that this law, this provision, does not clarify beyond the current problem.

Those are really the issues at hand, and I think, therefore, falsely argued today is the question of increasing complication. I think that is simply not the case.

Now, Mr. President, the chairman and I share the compassion and I think we share the emotion, as we know all Senators in this body do, that we want to see adults adopting children of special needs and all children who want parents, and we want to make that process a little less complicated and a little less expensive.

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

Mr. CRAIG. That is the intent of this amendment, and I encourage all to oppose the tabling.

Mr. KOHL. Mr. President, I rise in opposition to the pending amendment, not to that amendment's primary goal.

I applaud the families that chose to adopt special needs children and I agree that they deserve additional support.

Unfortunately, nothing is free. And when we support these families, we have to tax others. And that is what bothers me about the amendment offered by our colleague from Idaho. The Craig amendment gives increased Federal support to one set of families by taking away a tax break given to others, in this case, poor working families with small children.

The benefits in Senator CRAIG's amendment are paid for by restoring the current law interaction between the wee tot supplement to the earned income credit [EIC] and the dependent care tax credit [DCTC]. That's a mouthful. But what it boils down to is that this amendment would make it more difficult for low-income working families to apply for the EIC.

The EIC is the United States's largest and most effective program for low-income, working families. Families with children under 1 year old receive a supplement to the EIC known as the wee tot credit.

Under current law, a family cannot claim both the wee tot credit and the dependent care tax credit. To enforce this restriction, the IRS developed a complicated set of forms and rules which all EIC filers must comply with—even if they are not claiming the wee tot supplement.

For over a year, there has been almost universal agreement that the rules ought to be repealed to simplify the EIC. The administration testified in favor of repealing the rules. Outreach groups that work with EIC filers urged repeal. Senator BENTSEN and the Finance Committee, Representative ROSTENKOWSKI and the Ways and Means Committee all agreed to repeal of the interaction rules in H.R. 11.

As chairman of the Subcommittee on Information and Regulation, I held a hearing on the complicated paperwork connected with the EIC. The witnesses at that hearing presented a series of innovative ideas for cutting through the redtape that keeps so many eligible families from filing for or receiving the EIC. But the witnesses agreed that one of the most effective redtape cutting measures we could take would be to repeal the interaction rules.

The amendment of the Senator from Idaho restores all those rules and all those forms and all those pages we fought so hard to eliminate. It increases the paperwork associated with filing for the EIC. It increases the complicated instructions that must be read and comprehended by EIC filers. It increases—dramatically increases—the chance that eligible low-income families will not apply for the tax benefits to which they are entitled.

Do we really want to burden our most effective program for working poor families with paperwork? Do we really want to raise money by increasing the Government redtape that must be endured by families trying to work for a living?

In the Congress, we have—with good reason—heard a great deal about regulatory burden and about excessive Government paperwork. Every member of this body has spoken out against Government redtape. Well, I want my colleagues to know, that's what this amendment is about—redtape. Redtape that will keep deserving working families from receiving the tax break that may keep them off welfare, that may make it possible for them to make it from one payday to the next.

I am disappointed that there is not more concern about this paperwork producing amendment. Where is the Vice President's Council on Competitiveness on this issue? Why aren't they down here fighting against paperwork and redtape? Don't they understand that the working poor suffer from Government paperwork just as much as wealthy corporate conglomerates?

Redtape isn't only a problem for the rich. Paperwork doesn't only plague large companies. If the Craig amendment prevails, the 13 million families who apply for the EIC will pay, in the form of fees paid to professional tax preparers, in the form of time taken from the family and spent trying to read the complicated rules, in the form of the money lost when the wrong tax option is chosen because the rules are so hard to understand. If the Craig amendment prevails, another 2 million families eligible for the EIC—intimidated by the forms and rules—will never even apply for their benefits.

The Senate should not be willing to pay this price no matter how noble the goal of Senator CRAIG's amendment is. The Senate should not be asked to take benefits from the children of poor, working families—one vulnerable group—in order to give benefits to special needs children—another vulnerable group. The Senate should not stand for the imposition of more Government redtape of those least able to fight against it. The Senate should defeat the Craig amendment.

Mr. BENTSEN. Mr. President, what time is left?

The PRESIDING OFFICER. The Senator controls 3 minutes and 23 seconds, and the proponents' time has expired.

Mr. BENTSEN. I yield back the remainder of my time. I move to table the amendment. 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 to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from California [Mr. SEYMOUR], are necessarily absent.

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 46, nays 30, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—46

| | | |
|---|---|---|
| Adams | Ford | Mitchell |
| Akaka | Glenn | Moynihan |
| Baucus | Graham | Nunn |
| Bentsen | Harkin | Pell |
| Biden | Heflin | Pryor |
| Bingaman | Hollings | Riegle |
| Bradley | Inouye | Robb |
| Breaux | Johnston | Rockefeller |
| Bryan | Kennedy | Sarbanes |
| Byrd | Kerrey | Sasser |
| Conrad | Kerry | Shelby |
| Daschle | Kohl | Simon |
| DeConcini | Lautenberg | Specter |
| Dixon | Levin | Wofford |
| Dodd | Lieberman | |
| Exon | Metzenbaum | |

NAYS—30

| | | |
|---|---|---|
| Burns | Grassley | Pressler |
| Chafee | Hatch | Roth |
| Coats | Hatfield | Rudman |
| Cochran | Jeffords | Simpson |
| Craig | Kassebaum | Smith |
| D'Amato | Lott | Stevens |
| Danforth | Lugar | Symms |
| Dole | Mack | Thurmond |
| Domenici | McConnell | Wallop |
| Gorton | Packwood | Warner |

NOT VOTING—24

| | | |
|---|---|---|
| Bond | Cohen | Gore |
| Boren | Cranston | Gramm |
| Brown | Durenberger | Helms |
| Bumpers | Fowler | Kasten |
| Burdick, Jocelyn | Garn | Leahy |

| | | |
|---|---|---|
| McCain | Nickles | Seymour |
| Mikulski | Reid | Wellstone |
| Murkowski | Sanford | Wirth |

So the motion to table the amendment (No. 3200) was agreed to.

Mr. DOLE. Mr. President, I have had a brief discussion with the managers, and also with the majority leader. I know that most of the amendments are on this side of the aisle, so I am going to make the following proposal.

If anybody feels constrained to have a rollcall on their amendment, let us offer those amendments now. We have a number of our colleagues on each side of the aisle who have obligations later today far away from Washington, DC. It would certainly accommodate a number of them if we could do the rollcall votes, say, between now and 11 or 11:30 on very short time agreements. We have 12 absent on each side. Within the next 2 or 3 hours, it will be up to 15 or 20, I would guess.

In an effort to help the managers, I make a strong plea to my colleagues on this side, if you have to have a rollcall on your amendment, offer it now, and let us get the rollcall votes out of the way and then Senators PACKWOOD and BENTSEN can deal with the acceptable amendments, and maybe we can have a final passage vote on Tuesday. I just make that suggestion.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments and for his courtesy. I make the same plea to our colleagues on this side of the aisle. We will finish the bill today, with the possibility of a final passage vote on Tuesday. We will, at the very least, go to third reading. If a Senator has an amendment, the time to offer it is now, because as soon as we can do so, we will proceed to third reading.

It is my hope that many of the proposed amendments will not be offered. I think the minority leader's suggestion of those which we know will require a recorded vote going immediately so that we can get that over with as soon as possible is a good one.

Mr. BENTSEN. Mr. President, if I might intercede for a moment, let me say I totally agree with the admonitions and the recommendations of the majority leader and the minority leader. I also want to say to you that if you want recorded votes on everything that is out there, forget it. We cannot get it done. It just means that I hope very strongly that you will tell us that you are not going to push the amendment.

Mr. DOLE. We do not necessarily want any recorded votes. If there has to be one, we ought to do it now so our other colleagues can be relieved of that problem of waiting around until 2 or 3 o'clock for somebody to say I want a rollcall.

Mr. METZENBAUM. Mr. President, I think that we are talking about a make-believe world. There are 90 amendments out there, I am told. I am not sure—maybe there is something less—whether it is 40 or 50. Most of the Members of this body do not know what is in those amendments. This Senator certainly does not. But I do not think there is any of us who can say at this point that after some that we know are going to need rollcalls on are dispensed with, somehow we are not going to have rollcalls after 11:30 this morning in connection with other amendments, the substance of which we are not familiar.

I want to make it clear that I am concerned about what these amendments provide. I do not know what they provide. I will be here, but if I think it is necessary to have a rollcall, I certainly am going to ask for a rollcall. I certainly am within my rights in doing so.

So regarding this whole concept of saying we will take up the amendments that need rollcalls before 11:30, and everything after that we assume there will not be any need for rollcalls, I want to make my voice heard and say I am not a party to that, and I would be prepared to ask for a rollcall whether 4 o'clock this afternoon or 6 o'clock this evening.

Mr. MITCHELL. Mr. President, I believe the suggestion is, first and foremost, that amendments not be offered. I expect that the Senator from Ohio would not object if an amendment is not offered.

Mr. METZENBAUM. I am hardly in a position to do that.

Mr. MITCHELL. There will be a number of amendments that the managers have already worked out and indicated they are willing to accept and will be cleared. There is no need for a rollcall vote now.

Mr. METZENBAUM. I am not sure the ones the managers have cleared have been cleared with all Members of the Senate. I think we have concern about that.

A couple amendments we took up totally by surprise. It so happens when we read them over they were acceptable.

I think the smallest amendment sometimes is the most significant amendment and I think that this rush is fine. I am just as anxious as anyone else to get out of here, but this is a very important piece of legislation and every amendment is in all probability very important.

Mr. MITCHELL. I am certain that the managers will be pleased to work with the Senator from Ohio and receive his advice and counsel on these amendments, and I hope that we can get going now and we can proceed to complete action.

Mr. DOLE. Mr. President, I say to the Senator from Ohio I know of his interest in the amendments and I certainly share that view. He was very helpful to me when I was chairman of the Finance Committee. In fact, I dubbed him my commissioner of taxation, and we had cleared them with the Senator from Ohio and in most cases we had no problem.

Mr. METZENBAUM. I thank the Senator from Kansas.

The PRESIDING OFFICER. Who seeks recognition.

The Senator from Utah [Mr. HATCH].

AMENDMENT NO. 3201

(Purpose: To amend the Internal Revenue Code of 1986 to exempt explosives handling equipment from the heavy truck tax)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. BURNS, Mr. CRAIG, Mr. GARN, Mr. SIMPSON, Mr. SYMMS, Mr. MCCONNELL, Mr. WALLOP, and Mr. WARNER proposes an amendment numbered 3201.

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

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

The amendment is as follows:

At the end of title VIII add the following new section:

**SEC. EXPLOSIVES HANDLING EQUIPMENT EXEMPT FROM HEAVY TRUCK TAX.**

(a) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) EXPLOSIVES HANDLING EQUIPMENT.—Any article primarily designed—

"(A) to be placed or mounted on an automobile truck chassis, truck trailer, or semitrailer chassis, and

"(B) to be used to process, prepare, or load explosive products or the components thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(b) of the Surface Transportation Assistance Act of 1982.

Mr. HATCH. Mr. President, I hope that my colleagues on the committee will accept this amendment but let me just make a brief explanation of it. I think it is an important amendment. It is a low-cost amendment but one that could result in more revenues and help the explosives industry in this country.

This amendment is cosponsored by Senators BURNS, CRAIG, GARN, MCCONNELL, SYMMS, SIMPSON, WALLOP, and WARNER. It proposes to exempt from Federal excise tax bulk explosives handling vehicles or mobile units.

Let me make four main points regarding this amendment, Mr. President.

First, an explosives handling vehicle, which I will refer to as the "EHV," is a mobile manufacturing plant:

It mixes dangerous explosive chemicals into a volatile compound for insertion into detonation chambers in mining operations.

Only 30 percent of the vehicle's mixing unit, permanently attached to a specially configured truck chassis, con-

tains bin space for explosives transport.

And, these vehicles will spend, on the average, only 420 to 700 miles on the public highways of the total 6,000 to 10,000 miles traveled annually. In other words, more than 70 percent of the unit's life is spent off the highway.

Second, current law exempts cement mixers from FET, presumably because they are specialized industrial vehicles. On this basis, however, the argument and case for EHV exemption could not be stronger.

Cement mixers do not transport dangerous or hazardous materials.

They are not rolling manufacturing units but, rather, they are transports of commodities that spend most of their lives on the public highways—in short, the EHV is more qualified than the cement mixer for the excise tax exemption under the current criteria.

Third, the impact of this amendment is widespread. It affects nearly 240 companies in 42 States, many of which have told us of the imminent financial peril which they face if this amendment fails. Since the IRS has not collected the FET on the EHV's for over 9 years, many companies face a tax charge that would drive them into immediate bankruptcy should the IRS force collection. I am attaching for the RECORD, Mr. President, the complete list of companies in each of the 42 States, and I believe all Senators have been contacted by them.

Finally, the revenue effect of this amendment is almost negligible, Mr. President. Although the Joint Committee on Taxation has estimated that enactment of this provision would cost the Treasury $2 million over 5 years, we must keep in mind that not $1 has yet been collected in Federal excise tax on these vehicles. And, more importantly, this is just a baseline estimate by Joint Tax: that is, the real offset is $200,000 annually—Joint Tax looks back for 5 years of uncollected taxes.

This is a fair amendment, and one that will give at least 84 Members of this body the chance to demonstrate their commitment to business growth and competitiveness.

I do not believe there will be any loss. In fact, I believe the businesses will be able to do even better.

Mr. President, let me elaborate on many of the points I made earlier.

Revenue Ruling 79–191 reviewed the nature and use of explosives handling vehicles, or EHV's, finding that the mixing units attached to the truck chassis were liable for a Federal excise tax or FET.

The industry redesigned the vehicles to avoid this tax. They became an integral, mobile unit. In 1991, an IRS technical advice memorandum [TAM] reviewed the 1979 decision, holding that both the mixer and the chassis continued to be liable for FET. However, the TAM relied on the 1970-era vehicle, rather than the modern version. The TAM makes minor concessions to some mixer-related equipment, such as stabilization jacks, but ignores the new nature of the vehicle.

Not surprisingly, the taxes remain uncollected while repeated appeals from this injustice are being filed. The Joint Committee on Taxation estimates the revenue effect of this amendment to be an aggregate amount of minus $2 million, based upon a 5-year projection over the period of 1992 to 1997.

I would argue that no offset is necessary for two reasons. First, there has been no actual revenue loss since no FET was collected. And, second, without the FET, more vehicles would be built, each paying the $7,000 FET on the chassis. At present, the FET on mixers is steep enough to make the EHV users refurbish old units rather than build the types of new ones that will add efficiency and, possibly, some modest profitability to the mining industry. I should also add that the United States is a net exporter of these vehicles, still another source of tax revenues.

Finally, some opponents of this amendment have raised the issue that these mobile manufacturing units are actually trucks, and that exempting them will cost revenues from the highway trust fund. These vehicles spend less than 7 percent of their annual 6,000 to 10,000 miles on public highways—that is, between 420 to 700 miles a year. For this very limited use, they pay the same excise tax rate as transport vehicles, like dump trucks or commercial tractor-trailer haulers.

Let me add one final clarifying point. Only 15 percent of the total vehicle value is attributable to a commodity hauling function: this is the amount of bin space in the vehicle. These units cost $140,000, of which the chassis and mixer component each cost $70,000. Is it fair to put a commercial hauler, with over 90 percent of the vehicle devoted to hauling, on the same tax footing as a vehicle which is so evidently a mobile manufacturing unit, and which in many States requires a special permit to use on the highways? This is the foundational wrong corrected by this amendment, Mr. President.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the States and companies affected by this amendment.

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

E.T.I., P.O. Box 8520, Ketchikan, AK.
Reed Explosives, Inc., P.O. Box 482, Arab, AL.
Nelson Brothers, P.O. Box 207, Parrish, AL.
Drummond Coal Co., P.O. Box 1549, Jasper, AL.
Boren Ikeco, Rt. 2, Box 445-C, Parrish, AL.
High-Tech Inc., P.O. Box 3112, East Camden, AR.
Seco Inc., Box 1330, Greenwood, AR.
Universal Propulsion Systems Co., Inc., Phoenix, AZ.
Schlumberger Well SVC, 517 Houston Street, West Sacramento, CA.
Alpha-Ireco, P.O. Box 310, Lincoln, CA.
Rockwell International, North American Aircraft, Los Angeles, CA.
M.I. Baxter Drilling Co., P.O. Box 245, El Cajun, CA.
Southwestern Explosives, P.O. Box 308, Oro Grande, CA.
Southwestern Portland, 16806 North E. Street, Victorville, CA.
King Explosives, 3341 Fitzgerald, Rancho Cordova, CA.
W.A. Murphy Co., 16511 National Trails Hwy., Hellendale, CA.
Emrick & Hill, 4160 Fox St., Denver, CO.
Buckley Powder Company, 42 Inverness Drive East, Englewood, CO.
Deco Services, Inc., 107 Danbury Road, New Milford, CT.
Connecticut Explosives, P.O. Box 625, Branford, CT.
Vets Explosives, Box 843, Torrington, CT.
E.T.I., 501 Carr Road, Wilmington, DE.
ICI Americas, Inc., Export Purchasing, Wilmington, DE.
E.I. Dupont, Accounts Payable—13163, Newark, DE.
Contract Drill & Blasting, 2203 Laughing Gull Circle, Atlantic Beach, FL.
Engineering Technologies, 3275 Progress Drive, Orlando, FL.
Martin Marietta Corp., Box 555817, Orlando, FL.
Olympic Energy, Inc., 110 McClarty Road, Whitesburg, GA.
Georgia Explo. & Supply, 360 Englewood Avenue S.E., Atlanta, GA.
Atlanta Explosives, P.O. Box 1589, Carrollton, GA.
Olson Explosives, P.O. Box 90, Decorah, IA.
Bennett Explosives, RR #4, Box 9, Manchester, IA.
Quick Supply Co., 6620 N.W. Toni Drive, Des Moines, IA.
Explo Midwest, 4752 W. Stage Coach Trail, Galena, IL.
Evenson Explosives, Inc., 516A Bedford Road, Morris, IL.
Econex, Inc., 1776 S. Naperville Road, Wheaton, IL.
B&LS Coal, Box 740, Washington, IN.
Conex, Star Route 60, Derby, IN.
Associate Mining Corp., P.O. Box 5, Clay City, IN.
Evenson Explosives, 10065 E. State Road 46, Bloomington, IN.
United Minerals Inc., 409 Van Buren St., Huntingburg, IN.
Columbus Powder, 2360 North National Rd., Columbus, IN.
Peabody Coal Company, Lynnville Mine, Lynnville, IN.
Austin Powder Co., P.O. Box 46, Springville, IN.
Amax Coal Co., P.O. Box 967, Indianapolis, IN.
Warex Corporation, Box 306, Booneville, IN.
Warrick Co. Coal Corp., P.O. Box 376, Booneville, IN.
Dyna-Blast, Inc., P.O. Box 1650, Nortonville, KY.
Martiki Coal Company, P.O. Box 8, Lovely, KY.
Capco E.K.E. Division, P.O. Box 307, Prestonsburg, KY.
Kentucky Powder Co., P.O. Box 55660, Lexington, KY.
Farmers Supply & Explosives, P.O. Box 604, Barboursville, KY.
Falcon Coal, Arch on North Folk, Jackson, KY.

Delaware Powder Co., P.O. Box 640, Pineville, KY.
P & M Coal, Box 1056, Madisonville, KY.
Pine Branch Coal Sales, Box 246, Chavies, KY.
Sandy Valley Explosives, P.O. Box 488, Allen, KY.
Tri-State Explosives, 404 McLeod Lane, Madisonville, KY.
Costain Coal Inc., Western Division, Sturgis, KY.
Southern Explo. Corp., P.O. Box 685, Glasgow, KY.
Besse Branch Coal Co., 8529 Upper Johns Creek Rd., Kimper, KY.
Reed Crushed Stone, P.O. Box 35, Gilbertsville, KY.
Charolais Corp., Hwy. 82, Madisonville, KY.
Mountain Explosives, Co., HC 75, Box 545, Paintsville, KY.
Mine & Mill Supply Co., Rt. 1, Box 79, Dawson Springs, KY.
Caldwell Explosives, P.O. Box 716, Hazard, KY.
West Kentucky Explosives, P.O. Box 230, Lagrange, KY.
Wayland Explosives, P.O. Box 58660, Lexington, KY.
Pioneer Explosives, 174 Haydenville Rd., Whatley, MA.
CSX/Rids, 301 North Charles St., Baltimore, MD.
Explo-Tech, Inc., Box F, Westernport, MD.
Tri State Explosives, 8200 Seven Locks Road, Bethesda, MD.
Martin-Marietta, 1430 South Rolling Road, Baltimore, MD.
Potomac Edison, Attn: Robin Maloy, Hagerstown, MD.
Pepin-Breco, Inc., P.O. Box 8, Fishpeming, MI.
Decker Coal, 12 Lakeshore Drive, Decker, MI.
Callahan Mining Corp., Rt. 1, Box 380, Champion, MI.
Econek, Inc., 4368 S. Foco Road, Standish, MI.
F.M.C. Corporation, Naval Systems Division, Minneapolis, MN.
High Energy Technology, P.O. Box 676, Winona, MN.
Cook Slurry Company, Schley Mine Road, Gilbert, MN.
Dole Explosives, P.O. Box 71, Rosemont, MN.
Misabi Powder Co., 18th at 5th Avenue, Hibbing, MN.
Minnesota Explosives, P.O. Box 615, Biwabik, MN.
United States Steel Corp., Mgr Acctg, Attn: Acct Pay., Mt. Iron, MN.
Viking Explosives Supply, Box 207, Hibbing, MN.
Explo-Midwest, 2883 South Range Line, Joplin, MO.
Demo Coal Co., P.O. Box 587, Moberly, MO.
Associated Electric, Cooperative, Springfield, MO.
Eldorado Chemical, P.O. Box 27382, St. Louis, MO.
Consolidation Coal Co., Attn: Accts Payable, St. Louis, MO.
Hughes Aircraft Co., Rt. 15, Forest, MS.
Atlas Powder Internat'l, P.O. Box 74, Pearlington, MS.
Lavelle Powder Company, P.O. Box 3548, Butte, MT.
Round-Up Powder, Box 160, Miles City, MT.
Atlas Southeast, Inc., Attn: Jan Clayton, Greensboro, NC.
Martin Marietta Aggregate, Attn: Victor Bryan, Raleigh, NC.
Ideal Supply, P.O. Box 15397, Asheville, NC.
Piedmont Explosives, Rt. 13, Box 193, Statesville, NC.
Green Mountain Explosives, P.O. Box 129, Auburn, NH.
Explosives Supply Co. Inc., 18 Columbia Drive, Amherst, NH.
New England Explosives, P.O. Drawer H, Keene, NH.
Hercules, Inc., Howard Boulevard, Kenvil, NJ.
SSE Inc., 5801 Magnolia Ave., Pennsaken, NJ.
American Dredging Company, P.O. Box 190, Camden, NJ.
Pittsburgh & Midway Coal, P.O. Box 3238, Gallup, NM.
P & M Coal Company, McKinley Mine, Gallup, NM.
Santa Fe Pacific Coal Co., Lee Ranch Mine, Grants, NM.
Santa Fe Pacific Gold Co., Lone Tree Mine, Valmy, NV.
Echo Bay Minerals, Box 1668, Battle Mountain, NV.
Barrick Gold Strike Mines, P.O. Box 29, Elko, NV.
Brown & Root, P.O. Box 3570, Hawthorne, NV.
Refund Mt. Gold Corp., Box 480, Round Mountain, NV.
Western States Energy, Box 1386, Elko, NV.
Hall Explosives, P.O. Box 230, Adams Center, NY.
St. Lawrence Explosives, P.O. Box 230, Adams Center, NY.
Explo Inc., 750 Zerega Avenue, Bronx, NY.
Gray Rock Supply., 135 Fulton St., White Plains, NY.
St. Lawrence Explo. Corp., 8250 Gulf Road, Leroy, NY.
North Country Explo., Route 12-F, Dexter, NY.
Zinc Corporation of America, Hailesboro, NY.
Old Ben Coal Co., 200 Public Square, Cleveland, OH.
Austin Powder Company, 25800 Science Park Drive, Cleveland, OH.
Central Ohio Coal Co., Accounting Department, Lancaster, OH.
Northern Ohio Explosives, P.O. Box 155, Forest, OH.
Hooper Demolition, Inc., 10415 Riverside Drive, Powell, OH.
Buckeye Explosives, P.O. Box 753, Waynesburg, OH.
Geupel Construction, P.O. Box 20911, Columbus, OH.
High Power Energy, 1661 Old Henderson Road, Columbus, OH.
Bannock Coal Co., P.O. Box 98, Lafferty, OH.
Wampum Hardware Co., 60711 Dynamite Road, Salesville, OH.
Schlumberger Well Service, 6500 W. 45th Street, Shawnee, OK.
Mc Donnell Douglas-Tulsa, Accounts Payable T109, Tulsa, OK.
Explo Midwest, 12502 East 36th St. North, Tulsa, OK.
Delamar Silver Mine, P.O. Box 502, Jordan Valley, OR.
Atlas Powder Company, P.O. 577, Tamaqua, PA.
D.C. Guelich Explosives, RD 3 Box 125-A, Clearfield, PA.
Ramac Explo. of PA Inc., 4873 Hamilton Blvd., Allentown, PA.
David H Martin Excavating, 4691 Cumberland Highway, Chambersburg, PA.
D & J Maurer Inc., Rt 350 South, Phillipsburg, PA.
Explosives Services, Inc., RR #3, Box 749, Honesdale, PA.
Explo-Tech, Inc., 3rd Street & Cardinal Dr., Mt. Carmel, PA.
Keystone Explosives Inc., RD 5 Box 28A, Punxsutawney, PA.
Kesco, 127 Oneida Valley Road, Butler, PA.
Independent Explo Co. for FA-suite 500, Scranton, PA.
H.L. & A.G. Balsinger Inc., Miller Run Rd., Cuddy, PA.
Amos L. Dolby Co., P.O. Box 146, Corsica, PA.
Maurer & Scott, P.O. Box 2843, Lehigh Valley, PA.
Rock Poppers Ltd., P.O. Box 160, Shawnee-on-Delaware, PA.
Wayne Drilling & Blasting, HCR Box 24-A, Tyler Hill, PA.
Wyoming Valley Drilling, 29 Chamberlain, Plainsville, PA.
Wampum Hardware Co., RD #1, New Galilee, PA.
Divex, Inc., P.O. Box 3131, Columbia, SC.
E.T.I. P.O. Box 97, Van Wyck, SC.
Auld Hardware Company, 110 Poinsette Highway, Greenville, SC.
Southwestern Explosives, 1140 North Main Street, Spearfish, SD.
Hermitage Explosives Corp., P.O. Box 8001, Nashville, TN.
Martin Marietta Energy, Systems-Accts Payable, Oak Ridge, TN.
Southern Appalachian Expl., Box 567, Tracy City, TN.
Southeastern Energy Inc., P.O. Box 236, Louisville, TN.
Cherokee Products, P.O. Box 946, Rutledge, TN.
Tenn Nitrate Tech Inc., P.O. Box 85, Dunlap, TN.
Southwestern Explosives, P.O. Box 5556, Midland, TX.
Atlas Powder Co., 15301 Dallas Parkway, Dallas, TX.
Van Amburgialamo Explo. P.O. Box 244, Chico, TX.
Alamo Explosives Co. Inc., P.O. Box 2002, Houston, TX.
Ladshaw Explosives, P.O. Box 310510, New Braunfels, TX.
Schlumberger Perforating Center, Rosharon, TX.
Thermax Energy, 13601 Preston Road, Dallas, TX.
Strawn Explosives, 8701 Bedford-Euless Road, Hurst, TX.

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Mining Services Int., P.O. Box 774D, Salt Lake City, UT.
Wesco Inc., 3945 S. Wasatch Blvd., Salt Lake City, UT.
Western State Energy, P.O. Box 195, Lehi, UT.
A.T. Massey, Winston Coal, Richmond, VA.
Austin Sales, Inc., P.O. Box 133, Vansant, VA.
United Coal Company, P.O. Box 1280, Bristol, VA.
Paramount Coal Co., Attn: Accounts Payable, Lebanon, VA.
Luck Stone Central Serv., P.O. Box 128, Manakin, VA.
Motivation Coal Co., Attn: Accounts Payable, Lebanon, VA.
Little Six Corporation, P.O. Box 430, Clintwood, VA.
Holston Mining, P.O. Box 8000, Lebanon, VA.
Gibson/Reco Inc., P.O. Box 60, Duffield, VA.
Humphreys Ent. Inc., P.O. Box 668, Norton, VA.
Capitol Drilling Co., P.O. Box 1909, Manassas, VA.
Dama Inc., 1821 Thompson Memorial Dr., Roanoke, VA.
Buckanan Explosives, Box 776, Vansant, VA.

Capco-B&H Explosives Div., P.O. Box 757, Coeburn, VA.
Austin Powder Co., P.O. Box 167, Norton, VA.
Premium Energy, Box 430, Clintwood, VA.
Vess Excavating, P.O. Box 425, Crozet, VA.
Winchester Building Suppl., Rt. 6 Box 152AA, Winchester, VA.
Pacific Powder Co., 13120 Tilley Road, Olympia, WA.
Ahlgrimm Explosives, 1732 North Division St., Appleton, WI.
Geenen Explosives, 1273 County Truck Hwy E., Kaukauna, WI.
Eldorado Chemical Company, Blasting Products Div., Huntington, WV.
Austin Powder Company, Route 7E, Box 460, Masontown, WV.
Eastern Coal Company, P.O. Box 1233, Charleston, WV.
Hobet Mining Inc., P.O. Box 305, Madison, WV.
J.F. Allen Company, Box 49, Clarksburg, WV.
Ireco, Inc., Star Route, Box 346, Hernshaw, WV.
Lilly/Reco DBA, Lilly Explosives Co., Midway, WV.
Explo-Tech, Inc., 738 Berkeley Station Rd., Martinsburg, WV.
Buffalo Coal Co. Inc., P.O. Box 282, Baynard, WV.
Colony Bay Coal Co., West Virginia Division, Charleston, WV.
E.T.I., P.O. Box 288, Piney View, WV.
Old Hickory Coal, P.O. Box 203-5T Rt 17, Sharples, WV.
Al-Tex Coal Corp., P.O. Box D, Sharples, WV.
Southern Explosives Corp., Rock Branch Ind. Park, Poca, WV.
Dupont Potomac River Works, Rt 1 & Huffman Road, Falling Waters, WV.
E.T.I., P.O. Box Dr. 863, Martinsburg, WV.
Peabody Coal Company, P.O. Box 1233, Charleston, WV.
Mountain State Bit, P.O. Box 4300, Morgantown, WV.
Capco-West Virginia, Explosives Division, Glen Morgan, WV.
Eldorado Blasting Prod., Box 245, Rawlings, WY.
Cordero Mining, P.O. Box 1449, Gillette, WY.
Southwestern Explosives, P.O. Box 747, Mills, WY.
West Cordero Mining Co., P.O. Box 1449, Gillette, WY.
Western States Energy, Box 2560, Gillette, WY.
Alaska Pacific Powder Co., Anchorage, AK.
Alpha Ireco Inc., Lincoln, CA.
Boren Reco, Parrish, AL.
Buckley Powder Co., Englewood, CO.
W.H. Burt Explosives, Inc., Moab, UT.
Cona, Inc., Tahlequah, OK.
Conex, Derby, IN.
Dyna-Blast Inc., Nortonville, KY.
Econex North Inc., Wheaton, IL.
Econex West Inc., Wheaton, IL.
Explosives Supply, Shirley, MA.
Gibson Ireco Inc., Duffield, VA.
Southeastern Energy Inc., Louisville, TN.
Strawn Explosives Inc., Hurst, TX.
Wampum Hardware Co., New Galilee, PA.
Western Explosives Co. (WESCO), West Jordan, UT.
Ireco Detonators, Port Ewen, NY.
Ireco, Inc., Salt Lake City, UT.
Ireco, Florida, Miramar, FL.
Mountain Explosives Co. (MECO), Paintsville, KY.
Mine Equipment & Mill Supply Co., Dawson Springs, KY.
Midland Powder Co., Dawson Springs, KY.
Minnesota Explosives Co., Biwabik, MN.
OEI Inc., Whitesburg, GA.
Pacific Powder Co., Olympia, WA.
Pepin Ireco Inc., Ishpeming, MI.

EQUIPMENT MANUFACTURERS

Amerind Inc., 30 Lndel Avenue, Rancocas, NY 08073.
ARESCO, East 5650 Seltite Way, Post Falls, ID 83854.
Tradestar, 3150 West 8600 South, West Jordan, UT 84088.
Warren Manufacturing, 1008 37th Street North, Birmingham, AL 35234.
Washington Auto Carriage, P.O. Box 11435, Spokane, WA 99211.
Tread Corp., Roanoke, VA.

Mr. HATCH. Mr. President, that is a very simple explanation of what it is. It is a fair amendment. It is not a costly amendment. In fact, I do not think it will cost the Treasury a nickel. Joint Tax has it at $2 million over 5 years. So it is negligible.

I thank the Chair and invite my colleagues support.

Mr. BENTSEN. Mr. President, I will ask if there are any questions on this side.

Mr. METZENBAUM. There are.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, this is one of those amendments that comes as somewhat of a surprise but if my understanding of the amendment is correct it is an amendment to provide a tax exemption for certain trucks and the amendment is retroactive for 10 years, going back to 1982.

I have to believe that this is going to cost the Federal Treasury a substantial amount of money. I do not know why we would be doing it, why we would be providing a tax exemption with the strong need for dollars in the Treasury, why we suddenly come in and carve out an exemption and go back 10 years and provide that which would obviously bring about refunds.

Mr. HATCH. Mr. President, I do not want to keep my colleagues on this amendment very long but let me just answer my distinguished colleague who has sincerely raised questions. Why should we give special treatment to explosive handling vehicles, why not include cement mixers, grain haulers or even road graders.

This should not be seen as a request for special treatment. The explosives handling vehicles, hereinafter referred to as EHV, would be made exempt from the Federal excise tax by treating it in the same exemption category in the Internal Revenue Code section 4053 as the cement mixer which was made a special statutory exception years ago.

The EHV, however, meets the terms of the Code, justifies the exclusion and needs no special treatment. The 1979 revenue ruling making EHV eligible for Federal excise tax was based on a review of 1970 technology mixers. The modernized vehicle designed and in use since then to avoid Federal excise tax liability does meet the Code is grounds for exemption in my opinion.

However, this is the problem. The IRS continues to rely on the old-style truck as they have for 10 years, yet remaining uncertain enough to keep them from actually collecting the Federal excise tax. The provisions of the Code are met by the EHV.

Let me tell my distinguished friend from Ohio there are 42 States that have this problem and a lot of these companies will go out of business if we do not clarify this and make it clear. It is a negligible cost to Treasury. The EHV is not a highway vehicle which is, of course, the reason for the Federal excise tax and that is the legitimate subject for it. The EHV cannot exceed 45 to 50 miles per hour, it cannot turn or maneuver safely, nor can it transport anything except mixing equipment that is permanently fixed to a special configured vehicle. It is a manufacturing device under the law.

It specifically exempts from the Federal excise tax self-propelled vehicles with equipment permanently mounted for use in the mining, construction, manufacturing, and drilling sector, among other industries.

This vehicle has no conceivable, realistic value once its critical components are separated. It could not transport anything, unlike the old flat-bed truck in which the 1979 ruling relied.

All I can say is if this exemption is not granted, a number of businesses that are critical to the mining, and other industries, will go out of business and for what we really have to acknowledge is a negligible cost to the Treasury which they have not even tried to collect realizing this vehicle does not meet the Code requirement. I want to clarify the Code to clarify what I consider to be an inequity. I hope the Senators will accept this amendment.

Mr. President, IRS, I think, tacitly recognizes that these vehicles should be exempted, but it is just not statutorily delineated. They have not even tried to collect the tax on them, realizing they are manufacturing an off-the-road vehicle that is not used on the highways, which was why the Federal excise tax was designed to begin with.

The cost is negligible. It is about $2 million over 5 years, none of which has ever been collected.

And it makes good common sense to do it since 240 companies in 42 States could be drastically affected by it.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BENTSEN. Mr. President, in listening to the amendment and further developing an understanding for it, I see no objections on this side.

Mr. PACKWOOD. And no objection on this side, Mr. President.

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

If not, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 3201) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 3202

(Purpose: To add a technical amendment)

Mr. HOLLINGS. On behalf of myself and Senator THURMOND, I have an amendment at the desk, and I ask for its immediate consideration. It provides for technical corrections.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. THURMOND, proposes an amendment numbered 3202.

Mr. HOLLINGS. 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 1527, between lines 22 and 23, insert the following:

(g) APPLICATION OF 1988 TECHNICAL.—At the election of an issuer made in writing to the Secretary of the Treasury, the amendment made by section 1009(b)(1)(B) of the Technical and Miscellaneous Revenue Act of 1988 shall not apply to bonds issued as bank eligible pursuant to Section 902 of the Tax Reform Act of 1986 before March 31, 1988.

Mr. METZENBAUM. Mr. President, would the Senator from South Carolina be good enough to yield for a question?

Mr. HOLLINGS. Yes.

Mr. METZENBAUM. Would the Senator from South Carolina be good enough to indicate what the cost of this amendment will be, if any?

Mr. HOLLINGS. The cost actually to the Government is none, in that this was a particular exemption back in the 1986 act. The facility's waterfront park was built, bonds were issued and then, in the 1986 act, this particular provision was left out in the engrossing, and we did not find it out until they got to the renewal of the bonds.

So this is to continue the present bond issue.

Mr. METZENBAUM. There is no change in the substantive law?

Mr. HOLLINGS. No change in the substantive law.

Mr. BENTSEN. Mr. President, I would say we look at this one at some length and are totally convinced there is equity in the request of the two Senators. We are delighted to accept it.

Mr. PACKWOOD. I can also add, I can assure the Senator from Ohio this was a genuine technical mistake between 1986 and 1988.

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

If not, the question is on agreeing to the amendment of the Senator from South Carolina [Mr. HOLLINGS].

The amendment (No. 3202) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I thank the distinguished managers.

Mr. THURMOND. Mr. President, I wish to express my appreciation to the managers of the bill for accepting this technical amendment.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3203

(Purpose: To express the sense of the Senate with respect to the tariff classification of multipurpose vehicles)

Mr. RIEGLE. Mr. President, if this is an appropriate time, I will shortly send to the desk a sense-of-the-Senate resolution regarding multipurpose vehicles and the issue of their classification as trucks versus cars under our procedures here in the United States.

I will be sending it in my own behalf and with cosponsorship from Senator LEVIN, Senator GLENN, and Senator WOFFORD.

Let me, if I may, now send the sense-of-the-Senate resolution to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself, Mr. LEVIN, Mr. GLENN, and Mr. WOFFORD, proposes an amendment numbered 3203.

At the end of title VIII of the Committee Substitute, insert:

**SEC. . SENSE OF THE SENATE REGARDING MULTIPURPOSE VEHICLES.**

(a) FINDINGS.—The Congress finds that—

(1) multipurpose vehicles are classified as trucks by the United States Government for emissions, fuel economy, luxury tax, and other purpose;

(2) the automobile industry reports multipurpose vehicles, such as trucks, in its sales figures;

(3) after almost 1 year of thorough analysis, in a ruling requested by a vehicle importer, the United States Customs Service found that multipurpose vehicles, because of their design characteristics, should be classified as trucks for tariff purposes;

(4) after only 1 month of review, the Treasury Department overruled the decision of the Customs Service ruling that two-door sport utility vehicles are trucks and otherwise identical four-door sport utility vehicles are cars;

(5) from time-to-time, a number of vehicle importers have themselves classified multipurpose vehicles as trucks in order to avoid a self-imposed quota on cars;

(6) the multipurpose vehicle was invented in the United States, and the market for multipurpose vehicles in the United States exceeds the market for such vehicles in the rest of the world;

(7) the production of these vehicles in the United States is a significant contributor to employment and profits in a key manufacturing sector;

(8) classifying multipurpose vehicles as trucks would result in $210 million a year in revenues to the United States Treasury;

(9) the United States should not make large, unilateral trade concessions to its trading partners, but rather should strive to receive reciprocal trade concessions from its trading partners;

(10) consistent classification of products is an important element of trade policy; and

(11) as the Customs Service correctly found, minivans and sport utility vehicles are not principally designed for the transport of persons, but equally designed for the transport of goods, because of their cargo capacity, removal of seats, flat floors, and large cargo space (in the case of minivans), and because of their off-road capability, heavy-duty suspension, low torque, and other truck-like characteristics (in the case of sport utility vehicles).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the January 4, 1989, decision of the United States Customs Service classifying multipurpose vehicles as trucks for tariff purposes was correct and should stand; and

(2) action should be taken to reinstate the Customs Service's decision.

Mr. RIEGLE. I thank the clerk for reading the text of the sense-of-the-Senate resolution.

Let me say that earlier this year the Senate acted on this favorably as an actual legislative item, not as a sense-of-the-Senate resolution. It was contained in the tax bill that went over to the House. It did not come on through in conference, but the Senate has acted on this and, previously, so has the House of Representatives on a separate matter.

But let me just take a minute and explain what is involved here, although the text of the sense-of-the-Senate resolution goes through the history quite thoroughly.

Throughout the 1980's, as the MPV—the multipurpose vehicle—market was rapidly growing, the U.S. customs classification and tariff practices were ambiguous and unclear. The Customs Service allowed importers to actually choose either to classify their MPV's as passenger cars or as trucks, depending upon whether the vehicle was equipped with a back seat.

As a result, importers manipulated the tariff system by classifying the same vehicle both ways, as a passenger car, which would have a tariff of 2.5 percent, or as a truck, with a tariff of 25 percent, when that was necessary to

avoid Japan's voluntary import restraint on the total number of cars coming into the United States. So this allowed foreign countries to game this system and go one way or the other and increase the volume of their activity in our market.

The Customs Service conducted a year-long investigation of this practice and they issued a ruling. Bear in mind, this is the Customs Service of the United States. It issued a ruling on January 4, 1989, that all of these so-called MPV's, these multipurpose vehicles, should be properly classified as trucks under the newly implemented HTS because, in the words of the Customs Service, they are principally designed—"with cargo-carrying and other characteristics which are not designed into cars." Those include such things as higher weight ratings, off-road capability, heavier suspensions and power trains, and all the other engineering configuration aspects that one would associate with a truck as opposed to a car.

But the very next month in a truly extraordinary action, the Treasury Department in an arbitrary move overturned the decision of the Customs Service and they ruled that any of these MPV's with two doors would be classified as trucks; but any of them that had four doors would be classified as passenger cars, even though in every other respect they were precisely the same—the heavier weight, all the other configuration aspects of a trucks. But if they put four doors on rather than two doors, they would allow them to treat those as cars as opposed to trucks, and come in under the lower tariff, the 2.5 percent as opposed to the 25 percent.

I must say the Customs Commissioner at the time, Commissioner von Raab, was very disturbed by this. So much so that he has written a letter on this subject in June 1992. He addressed this letter to Chairman ROSTENKOWSKI in the House, the Ways and Means Committee. Because he was being asked to explain what happened to overturn, in this arbitrary fashion, the formal customs ruling which is what we are seeking to reinstate here today in this sense-of-the-Senate resolution.

This is what he said. This is Customs Commissioner von Raab, who was a Reagan administration appointee, and I think it is fair to say a very effective person in that job. He writes as follows:

It is my understanding that the Committee will soon consider HR 4318, a miscellaneous tariff bill that was reported by the Trade Subcommittee in February. At the time of the full Committee mark-up, an amendment will be offered which would reinstate a 1989 Customs Service decision concerning the classification of multipurpose vehicles (MPVs) which was overturned by the Treasury Department. Treasury's reversal of a Customs Service classification ruling, which was reached after a year long examination of the facts, was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. government trade policy.

Again let me just step aside, parenthetically. This is the director of the Customs Service at that time, indicating here that this was a "shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy." Those are his precise words.

Since I was the U.S. Commissioner of Customs at the time of the original Customs Service ruling and the reversal by Treasury, I wanted to offer you my views on that decision.

On January 4, 1989, following a year long investigation, Customs ruled that sport utility vehicles and most small vans would be classified in tariff heading HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two door MPVs would be classified as trucks, but that most four door MPVs would be classified as passenger cars, a decision that defies logic.

The January 1989 Customs Service decision was right on the merits, and correct under the law. After the Treasury Department action, the Deputy Commissioner of Customs further substantiated the original Customs decision during an investigation he conducted in Japan. There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

The Congress should reinstate the Customs Service decision to restore integrity to the process by which decisions affecting U.S. policy are reached, and make clear that the trade rules of the United States government cannot be manipulated by producers which profit so greatly from their participation in the U.S. market.

Signed William von Raab who, as I say, served as our Customs Commissioner during the Reagan administration.

So you have there in his letter both the substance of the case as to why the Customs Service found this—made this ruling as they did in the first instance, and as he repeats several times in his letter, the direct political influence through the Treasury Department to turn that issue upside-down.

What effect does it have? It has had the effect of putting people out of work here in the United States who could be building these multipurpose vehicles right here in this country, in various American firms. But those sales are displaced and those jobs are lost by this practice of trade cheating. And it also costs our Government money. And increases the Federal deficit.

We have asked for an estimate from the Joint Tax Committee of the amount of money that will come into the U.S. Treasury if this tariff classification is reestablished as it should be, and the figure is $220 million a year coming directly into the U.S. Treasury to reduce the deficit. So that is $1.1 billion over the 5-year time period.

Here is over $1 billion being taken right out of our country, just in terms of the impact on our Federal deficit, in addition to the jobs and the damage to our industrial base by a devise that is clearly not right under the law and where the Customs Commissioner himself has pointedly said the decision was turned upside-down on the basis of political pressure by representatives of the Japanese government and businesses. And it is just not right. It is just not right. It is part of the economic sickness in this country right now that we have not dealt properly and fairly with these abuses of the trade system such as the one I have described here.

So it is very important that this be changed. Why am I offering it on a tax bill? Because we have no reason to believe that there will be a tariff bill this year. Time is too short. I had hoped that there would be one. It does not appear as a practical matter that there will be a general tariff bill this year.

I would also like to see a trade bill this year. I will say, as a practical matter, we are not going to have a trade bill. That would be another place in which this issue could be dealt with. But as a sense-of-the-Senate resolution in the context of this tax bill, it is absolutely appropriate and it is necessary. I want to say that I understand that the chairman of the committee is prepared to support and accept this sense-of-the-Senate resolution. I am very grateful for that.

As I say, the Senate has already acted on this. We put this in the tax bill earlier in the year. The House has acted on it. And here is a chance to pick up $1.1 billion in additional revenue over 5 years to the Federal Government and create more jobs in America, and most of all, stop a trade abuse.

I have a chart that I just want to take 1 minute and illustrate. This is what is called an MPV, or a sports utility vehicle. It is built directly up from a pickup truck foundation in the general structure and engineering design.

Under the laws of the country, when that kind of a vehicle comes in here, whether it is built in the United States or whether it comes in from abroad, it is treated as a truck for emission standards, which is one of the Federal standards that has to be applied to it: It is treated as a truck for fuel economy standards: It is treated as a truck with respect to the gas guzzler tax, we call it, and any possible luxury tax that would apply. And it is treated as a truck by the U.S. Treasury for tariff purposes. So that is a truck.

The only thing that happens with respect to these multipurpose vehicles is you take exactly the same vehicle and you add two more doors to it. The weight stays the same. It continues to be evaluated as a truck for safety standards. It continues to be a truck, as far as emission standards are concerned, in terms of the actual application of our laws. It continues to be a truck from the point of view of fuel emission standards. But, lo and behold, the Treasury Department said, even though it is a truck by every other definition and is built precisely the same way, with the exception of adding two more doors, we are going to call it a car, and we are going to lower the tariff from 25 percent to 2.5 percent.

The Japanese break out in big smiles because they have accomplished their objective, and that is to circumvent the laws because they get the best of both worlds, do you not see? Once they put two extra doors on there, they get to bring this vehicle in here and they get to be measured against the emission standards, the safety standards, and the fuel standards as if it were a truck, but then they get this special treatment on the tariff classification where the Treasury Department says, no, we will treat it as a car, even though it is a truck by every other standard; we will treat it as a car and give you this big financial break, so you can have more penetration in this market and put more American workers out of work and loot the Federal Treasury for another $1.1 billion over a 5-year period of time.

So this is wonderful for the Japanese and the Japanese producers but it is a bloody outrage.

I am pleased, again, of the fact that former Customs Commissioner von Raab, serving as he did in the Reagan administration, has come forward and laid bare exactly what happened here; that it is a bloody outrage and it is political manipulation, as he has laid out in his letter which I just read a few minutes ago.

It is outrageous what has been done here. That is part of what is damaging this economy because we do not insist on fair trading rules.

I wish we had the whole story. I would like to know who talked to whom as to how this magical decision was made in the Treasury Department within 30 days to turn upside down the formal ruling of the Customs Service after a year-long investigation.

The fact of the matter is if we are going to treat this vehicle as a truck for every single test in our country when it comes in here in terms of Government standards, then we are going to have to treat it as a truck, and properly should, with respect to the tariff classification.

This is a classic case of manipulating the system in a way that hurts America. It hurts us economically, it hurts our job base and it helps a foreign country engaged in a trade cheating practice with the aid and abetment of our own Government.

It is just not right and it is time to change it. We are in a situation where we can do it as a matter of law, but we are offering it today as a sense-of-the-Senate resolution. I do not know how long we need to talk about it. I am willing to talk about it as long as it takes. I do not know whether a vote will be necessary or not. But I intend to see to it that we act on this issue today.

Mr. President, I ask unanimous consent to add Senator SHELBY as a cosponsor to this sense-of-the-Senate resolution.

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

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. METZENBAUM. Will the Senator from Oregon yield for just 1 minute?

Mr. PACKWOOD. Yes.

Mr. METZENBAUM. Mr. President, the Senator from Ohio has just been presented with I think it is five pages of possible amendments from that side of the aisle. Some of them we are a little bit familiar with. The vast majority of them we have no idea what they contain. I just urge upon my colleague that if these amendments are going to be brought up, in order that we not delay the process, it would be very helpful if we can get copies of them at the earliest possible point. I am making that as a recommendation so we can expedite the process.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, there will be a rollcall vote on this because I find this the most blatant piece of anti-consumer anti-job legislation that we have had in a long time. I am stunned by those who come here bleeding for the consumers and then will support what is going to be a $2,000 to $6,000 increase on cars, and I use that term exactly.

I am very familiar with the Customs ruling 4 years ago and the Treasury overruling it because I remember talking with the Customs Commissioner and the Assistant Secretary of Treasury. I said if you want to know how these things are used, go down to the Safeway parking lot and watch how they are used. This is where the parking lot test came from.

These are cars. These are hauling kids to soccer games. These are used by citizens to haul around handicapped and senior citizens. They are very common names. These are sport utility vehicles, they are minivans—we would call them Plymouth Voyagers, Dodge Caravans. I drive, as a matter of fact, a Plymouth Voyager, Chrysler. I like it, and it is exactly like many of the vans that we import. Jeep Cherokee, Toyota Landcruiser, Isuzu Trooper. These are the things we are talking about.

Take a look at your plumber and what he drives around at work. He does not drive around in something like this. He drives around in a panel truck. It has two doors on it. It has big rear opening doors in the back. He does not drive around in these kinds of vehicles which are used by all of the people in this country as cars.

Here is the irony of this. Detroit has 90 percent of the market in these vans, and for the last 3 years, ever since Treasury said these imported cars are cars, they have been trying to overturn it. Here is what will happen, and we saw it happen in the early eighties. Do you remember the complaint? The Japanese were taking over our market in cars. It would drive the Big 3 out of business. It is their own fault to begin with. During the early 1970's, late 1960's, they had the bulk of the auto business in this country and they lost it in the midseventies to cars that had better quality, better mileage, and cheaper price.

I can remember the testimony in the Commerce Committee when we first started the mileage standards. The auto industry said we cannot meet those standards. We were importing cars that met those mileage standards when they said we cannot meet them.

The next thing they said, well, it would take us 5 or 6 years just to tool up. This is from the industry that managed to move from cars to tanks in 6 months in World War II and turn out serviceable tanks for the duration of the war. They have never liked imported competition of any kind.

Now, I will say to their credit, in the last 5 to 6 years they have gotten much better. Their production quality has gotten better; their service has gotten better. They have had tremendous, fierce competition from overseas, but they have gotten better. And this year, for the first time, American manufacturers have increased their percentage of the market. It is all good. It is all because of competition.

But in 1981—when the argument was made that the American auto companies were going to go out of business if we did not put a quota on the import of Japanese cars—we almost passed quota legislation on this floor. And at this stage the Japanese agreed to what is called the voluntary restraints agreement. It is the voluntary restraint of a man with a gun at his head who, when asked will you sign this contract, voluntarily signs the contract. So they put a limitation on how many cars they would send in.

Now, what happens when you can only send in so many cars? What cars do you make greater profit on, $7,000 cars or $17,000 cars or $27,000 cars? You make a greater profit on higher-priced cars.

And because what they could send in was limited by number, not by value,

what do you think were the cars that got left out as opposed to what got brought in? So right away we saw a disappearance of the lower-priced cars for middle-priced and gradually the Japanese moved into the upper-price market. And what happened to the price of cars in the United States, the domestic cars? Did our manufacturers seize this opportunity to move into the $6,000 to $9,000 market? No, they raised their prices. And so average, middle-income America was simply frozen out of cars that they used to be able to buy new because our manufacturers tried to maximize their profits rather than taking market share with a lower priced car.

Now we get down to the era of the vans, and these are commonly considered passenger vans, the Dodge Horizon, Volkswagen Vanagan. In other words, you see mothers and fathers with groceries, at supermarkets, at the soccer games, day care, the senior citizens, the door opens, out comes a handicapped. These are all cars and this is what they are used for.

Senior citizen groups are opposed to this amendment for the very reason they are buying these cars and using them in their daily lives.

In order to fully appreciate how unreasonable this provision is, one must understand the definition of an automobile and a truck under the harmonized tariff system. This is the common method of classifying goods throughout the world for customs treatment. We entered into the harmonized code, a brand new one, several years ago. The United States and almost all the developed countries belong. Automobiles are "motor cars and other vehicles principally designed for the transport of persons." Trucks are "motor vehicles principally designed for the transport of goods."

Under the U.S. tariff schedules, we impose a 2.5-percent duty on automobiles and a 25-percent duty on trucks. And in 1989, the Treasury overturned its own customs department and said that these vehicles would be considered as cars because they were used principally by the people in this country as cars.

Ever since 1989, the Big Three have been unsatisfied with this. Now, this sense-of-the-Senate resolution that the Senator from Michigan offers would classify for tariff purposes all sport utility vehicles and minivans in the same way that they are classified by the National Highway Traffic Safety Administration and the Environmental Protection Administration. And the argument is that they are doing this for regulatory consistency.

But that argument in my mind is fallacious. The argument that because these vehicles are treated as trucks under the Highway Safety Administration and the EPA, they therefore ought to be considered as trucks, is unfounded. The standards established for safety under the Highway Safety Administration and emission under EPA have no relevance whatever to the Customs criteria used to determine whether imports are trucks or cars.

The Highway Safety Administration and the Environmental Protection Agency criteria for sport utility vehicles and minivans have been developed to further the goals of those respective agencies, not for tariff purposes. Even though the Highway Traffic Safety Administration and EPA have traditionally regulated sport utility vehicles and minivans as trucks, the regulatory and legislative trend is to treat sport utility vehicles and minivans as automobiles.

The National Highway Traffic Safety Administration Authorization Act of 1991 calls for these vehicles to meet a whole array of passenger car safety standards. And the Clean Air Act is beginning to require light trucks to meet the same emission standards as passenger cars.

Then in the 1993 Department of Transportation appropriations bill which passed the Senate only a month ago, there is a provision which requires country of origin labels for automobiles sold in the United States. And the definition under this provision specifically includes passenger vans and its definition of automobiles.

But there are additional, perhaps more important, reasons that this amendment ought to be rejected. I emphasize again that Detroit, or I should say the big three—they are not all in Detroit—have about 90 percent of the passenger van business. They were the leaders. Chrysler was the leader of the leaders. But they want it all; 90 percent is not enough.

And my good friend from Michigan talked about jobs in Detroit. I am going to talk about jobs in Oregon. Oregon is the largest port of entry for Toyotas in the United States. It is the largest port of entry for Hyundais in the United States. It is the largest port of export for Hondas in the United States, made in this country and exported out. And the jobs that are created by this industry are family wage jobs. These are not minimum wage, fast-food jobs. These are teamsters, longshoremen, tugboat, railroad, and we all know the kind of wages that they pay in comparison to other wages. If anyone thinks I am going to trade off Detroit jobs for Oregon jobs with this kind of an amendment, then they are out of their minds.

I want you to now think once more when you go down to bargain for your car—and I say car or van, passenger van, call it as you want—and you suddenly find that you are going to have a $2,000 to $6,000 increase, depending upon what kind of import you are going to buy. In addition, you are going to have on average an increase probably in domestic van prices, I will take a guess of $1,600 to $3,000, which will rise right up as the price goes up. You are going to succeed, I think, in driving out the imports. They will not be able to compete at that price.

And the port of Portland is going to suffer job losses not in the tens and twenties and even scores, but in the hundreds if this passes.

The amendment, in addition, is GATT illegal, and I will tell you why. Under this international harmonized tariff system all auto-producing nations treat sport utility vehicles and minivans as automobiles. I want to say that again. All auto-producing nations treat sport utility vehicles and minivans for customs purposes. Under the GATT the United States is committed binding—and by that we mean in tariff terms—not to increase its 2.5 percent duty on automobiles. If we increase a bound duty it violates the General Agreement on Tariffs and Trade and we will be subject to retaliation and we will be required to compensate.

So not only are we going to lose jobs in all ports and dealerships in this Nation, but we in addition are going to pay compensation to the nation whose cars and vans we keep out. A 1,000-percent duty increase—and that is what 2.5 to 25 percent is—means an estimated cost to consumers of between $2,000 and $6,000, depending upon the value of the imported van. And all you are going to do is drive these vans out of the market and drive up the cost of the domestic vans.

Then let me say—and this is the most ironic of all because one of the leaders in this battle to impose this 2.5-percent tariff has been Chrysler—Chrysler exported out of the United States over 12,000 U.S.-made Jeep Cherokees—these are sport utility vehicles—to Europe. I asked the European Community ambassador how Europe treats these U.S. vehicles for tariff purposes, and he responded that the EC classifies Chrysler's exports as automobiles, not trucks for custom tariff purposes. He also reminded me that the provision is GATT illegal. And he assured me that the EC will challenge this provision in the GATT if it is enacted.

So I will conclude by saying this again. Whether or not this is GATT illegal, it is ill founded, unwise, anticonsumer, unfair, antijob legislation.

We have an opportunity to strike a blow for consumers in this country right here. If we want them to have the opportunity of choice, if we want them to be able to continue to buy these imported passenger vans at today's prices, then vote against this sense-of-the-Senate resolution.

If you want to go home and explain to your consumers that you voted to increase the price of imports $2,000 to

$6,000 and the price of domestic vans someplace between $1,600 and $3,000, you should vote for this resolution. But that is exactly what is going to happen. You are going to drive jobs out of the ports of Oregon, out of the ports of the United States, increase the costs to the consumers. The next time you are in the Safeway parking lot and somebody drives up, if they happen to recognize you as a Senator or Member of the House of Representatives and they say, "Which way did you vote on increasing the price of my car?" I hope you can look them in the eye and say, "I voted to increase the price of your car $4,000. I voted to sell out your interests as a consumer for jobs in Detroit for automakers that have 90 percent of the van business in this country already."

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I listened carefully to the arguments of the Senator from Oregon. He is a good friend. With all due respect, several of the arguments are just wrong. The last one is perhaps the most disingenuous of all. There is absolutely no basis to argue that this amendment is going to drive up the prices of these vehicles in the United States.

There is intense competition now in this country for vehicles made by different American producers and against other vehicles of all types. There is intense competition.

The notion that somehow or another somebody can raise the price without regard to the economic effect in terms of sales and market, especially if you are starting out, as he also points out, with a 90-percent market share is just nonsense. That is a contrived, invented argument. It is a scare argument, and there is nothing to it.

The problem here is you cannot have it both ways. You cannot let foreign producers come in here and have the advantage of every favorable measurement of Government regulation and say it is a truck in terms of emissions, in terms of fuel economy, safety, all the rest of it, and then turn around and, as a favor to foreign manufacturers and to a foreign government, say but even though it is a truck by every other standard, we are going to allow you to get by with the truck standards there; we are going to do you a big favor, and give you a car classification.

I appreciate the fact that the Senator was direct enough to say there is a jobs factor in his State, as clearly there is, as there is in mine because we build these vehicles also in my State. We build them in many States.

I can understand why States that border on the Pacific Ocean and that are the point of entry for the foreign vehicles being produced in Japan—when they come across on the boats, and land here in the United States. I can see why there are some jobs there of people unloading the ships, taking the vans and the multipurpose vehicles off the boats that have been produced in Japan, and the people who take those off the boats obviously make a living doing it. So there is a job impact there.

I would say that the aggregate job impact there, however, for those people that are unloading the boats from Japan as opposed to building a vehicle from the ground up here in the United States, there is no comparison between the job impact. If the value added is being done here in the United States for a vehicle that costs $20,000 or $25,000 or $30,000, that is providing jobs all across this country. The parts that go into a vehicle built in the United States is creating jobs in virtually every one of the other 50 States. So you have a situation here where there is an entirely different job impact.

I am not out to disadvantage somebody unloading a boat from Japan out in the State of Oregon or the State of Washington. But I will tell you this: If we would stop the trade cheating, we would make our own domestic industry stronger and we would be in a better position to start shipping vehicles built in the United States off to foreign countries.

Let us put your longshoremen workers and the others out there loading the ships to work putting American-built vehicles on those boats to send to Japan. Why can't they do that job just as well rather than earning their living unloading boats from Japan? The effect of leaving the law the way it is right now is it is creating jobs in Japan and subtracting jobs in America.

There is no dispute about the revenue impact of this. The Joint Tax Committee has figured out the revenue impact. If our sense-of-the-Senate resolution is passed, and were to take effect, it will raise $1.1 billion for the U.S. Government. That is the same thing as saying our Government is losing $1.1 billion at the present time stretched out over a 5-year period of time because of this unfair ruling. It is plain and simple political manipulation.

In fact, Von Raab, our former Customs Commissioner under President Reagan, has laid it bare. They went out; they did their analysis in the formal way that the law requires, they spent a year doing it, they figured out exactly what was going on, they made the truck classification, and within 30 days the Treasury Department turned it upside down, as Von Raab says in his letter, because of political pressure.

So somebody is getting rich off this. And it is the producers overseas who are getting rich off of it. We are going to have a trade deficit with Japan this year of $45 billion. They are sucking $3.5 billion a month out of our economy. We are still in this recession now nearly 2 years after it started. We are told that we have over 15 million Americans right now who are unemployed, discouraged workers who have given up looking or people working part time because they cannot find full-time work. We have a desperate need for jobs in the United States, and not just unloading boats from Japan; we need jobs in this country building things, building cars, building trucks, building multipurpose vehicles. But we do not have enough of those jobs.

Part of the reason we do not is the pattern of trade cheating that is going on, of which this is a classic case, an absolutely classic case of back room manipulation. The Customs Service is immune from that kind of politics. They did their analysis, they did their investigation, they issued their ruling, and they made it clear that this is a truck and not a car. It ought to be treated as a truck and not as a car as it is for every other test that our Government applies. It was the Treasury Department that turned that upside down and created this anomaly. It is absolutely incredible.

How does anybody get up with a straight face on the other side of this argument and say, "Well, yes, we think it ought to be considered a truck for emissions purposes. Therefore, we will not have as tough an emission standard. We will not put the emission standard on that we put on a car. Yes, you can have the emission standard for a truck. Oh, yes, and on the fuel economy standard, we will give you that, too. You use the truck standard. That is easier to meet. You don't have to use the car standard." Right across the board until you get to the tariff classification, and then the thing gets stood right on its head, and the Government is saying, "But, by the way, in order to help you foreign producers, we will give you a break in that area and we will give you the tariff classification for a car."

You cannot have it both ways. I ask my friends out there where the docks are along the Pacific Ocean where all of this Japanese and now Communist Chinese merchandise is arriving day by day on the ships, to start to think a little bit about what is going on in the rest of America. Start thinking a little bit about the damage these massive trade deficits are doing to our country.

Since 1980, our cumulative merchandise trade deficit is now nearly $1.2 trillion with Japan alone just through last year $460 billion. That means that Japan has sucked out of this country, in the merchandise trade deficit, $460 billion from 1980 through 1991, and all the jobs and all that scarce capital have left and gone to Japan, while we are in a weakened state today. We not only have the huge, massive structural trade deficit, but we have a huge budget deficit because we do not have enough jobs in this country. It is get-

ting worse. We cannot solve the problems, and we cannot solve them if we do not at least open our eyes and clear this manifestation of trade cheating that is helping other countries and hurting us.

The Japanese are laughing at us. They cannot understand our stupidity that we allow this kind of manipulation of our laws and rules to go on here.

Look across the country at all of this massive unemployment. You have a political revolt going on in the country, 80 percent of the people say we are on the wrong economic track going into the future, and people on the other side have the gall to come in here and argue that by every other standard we will treat this as a truck, but in order to make it easier for the Japanese to penetrate our market, we will give them a break on the tariff standard and we will say it is a car even though it is a truck, and we will let them drain out of our own Federal Treasury another $1.1 billion over the next 5 years.

What is going on here? When are we going to start doing something to help this country? Over the last few years we have had an economic program for every country in the world except our own. With regard to the most-favored-nation trading status with China, I was just told this morning that the latest estimates are that Communist China is going to have a trade surplus with the United States this year of $20 billion.

That is $20 billion worth of strength coming right out of our economy and going into Communist China, probably the most ruthless regime left on the face of the Earth. What sense does that make? We are losing jobs in every one of the 50 States that are now going to Communist China, and they are second on our trade deficit list, but they are far behind Japan, which is the worst offender in the deficit against us in their favor of $45 billion.

So we cannot keep looking the other way. I say to my friends from the west coast that it is time we put your dockworkers to work shipping American-built products to foreign countries and not put them to work unloading products being shipped in huge amounts here. I, frankly, think we have an obligation to think about the economic well-being of the country as a whole. When we build a product in the United States that costs $20,000 or $25,000 and principally is outsourced here in the United States, that is creating jobs in Alabama, and all across the country, including in Rhode Island. It is creating jobs all across the United States. But we have lost jobs because of this kind of trade cheating. You tell me, why would von Raab say this in his letter? He was confirmed by this Senate. He is a Reagan appointee, a Republican:

> Treasury's reversal of a Customs Service classification ruling reached after a year-long examination of the facts was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. trade policy.

Further on, he says:

> Based on all historical precedence, this should have been the end of the issue. After they made their ruling under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action and response to foreign political pressure—

His words, not mine—

> Treasury reversed the proper Customs ruling and concluded that the two-door MPV should be classified as trucks, but that most other four doors would be classified as passenger cars, a decision that defies logic.

I do not know what kind of appeal it takes for us to start thinking about what it is that is destroying the job base of this country. We are in serious trouble in this country. Everywhere you look, you see it. I can read you the headlines off of the financial section of the New York Times and Washington Post today, because we heard a load of additional bad economic data just yesterday. The stock market was down 40 points yesterday. Why do you suppose that is happening? Because we have a sick economy and because we have sick industries all over the place, and we do not have enough jobs.

Part of the reason for that is we have trade cheating going on, precisely of this kind. It is time to put an end to it. It is time to put an end to it. Other countries do not allow that to go on. Japan does not allow that kind of manipulation to go on in their market. You try to open a dealership in Japan today or sell things in Japan on anything like the basis in which they have access here. It is not possible. It has not been possible, and that is why the trade deficit with Japan this year is running at $45 billion a year in their favor.

So it is time to address these situations, particularly when the law has been manipulated as clearly as it has been manipulated in this case. This is just wrong, what has been done here, and it is hurting this country, and costing us jobs and money. It is unfair and it needs to be fixed.

Mr. CHAFEE. Mr. President, there is an arguing technique on the floor here lately of the louder you speak, apparently, the more effective one is. Also, I might say that in fostering his arguments, the Senator from Michigan is constantly using the words "trade cheating." I do not know where he gets the term "trade cheating." As a matter of fact, this particular case went before the ITC, and dumping was not found. So no harm from dumping was discovered. And I do not know where the term "trade cheating" keeps bounding up. It is an inaccurate expression.

Mr. President, we have a situation here where an argument is wrapped in the American flag, with great talk about more jobs in Detroit and across the Nation, more money for the Treasury. The only group they fail to mention is the consumer. Clearly, under the argument of the Senator from Michigan, the consumer gets ripped off. Where do you think all this additional money is going to come from, from the Treasury? It comes from the consumer.

I also might say that, somehow, any nation with which we have a trade deficit is evil. There is no mention of the nations that we have a trade surplus with. Are we evil in that instance? I do not think so.

What is taking place in the world, Mr. President, is competition. That competition is a winner for the consumer.

Furthermore, there has been some discussion of the fact that there will not be any price increases by the American manufacturers if we are able to keep out the imports. That is nonsense, Mr. President. We went through this with the VRA, the Voluntary Restraint Agreement. We kept out the Japanese cars, and what happened? The American manufacturers promptly raised their prices, because there was not the foreign competition that caused them to have better prices, better quality, and better service. In fact, what saved the American automobile industry was the imports. Finally, they got to it and realized they better shape up from the terrible automobiles they were producing in the 1970's and early 1980's.

Mr. President, what is this argument all about? It is an argument over whether there should be a 2.5-import tariff on minivans, or whether there should be a 25-percent tariff on minivans, by calling them trucks. The American exporters, when they export these vehicles, pay tariffs. Indeed that is what happens when they are shipped abroad. When they are imported, they want them called trucks so there will be a higher tariff.

Mr. President, what this amendment would do, if passed—and this is a sense-of-the-Senate, but obviously it is imploring the committees to carry out this policy of having these vehicles labeled trucks—what it will do is to deprive the American consumers of their right to choose. Are U.S. manufacturers endangered now? They have 90 percent of the minivan market. It is a $9 billion market. That is with the present tariff at 2.5 percent. Are they threatened or endangered? No, they are not. What they want to do is keep out all competition. After all, if you have 91 percent of the market, is that not enough? No, no, no, they want 100 percent, by causing a 25-percent tariff being levied on the imports.

Mr. President, what we are trying to do in America is have competition and give the consumer the best possible deal. And the best possible deal is when

the consumer can get a vehicle that provides the best in quality, the best in price, and the best in service. And that occurs when we are able to have the imports. And, indeed, the imports already have a 2.5-percent tariff, but that is not enough for Detroit.

So, Mr. President, I hope this amendment is rejected. I hope that we continue to stand for free trade here; that we do not violate GATT; that we have the imports that provide the competition, so that we will have the best for our consumers in price, quality, and service.

Mr. LEVIN. Mr. President, this is a very difficult place to be debating whether or not a particular vehicle should be classified by the Customs Service as a van, or as a truck, or as a car.

I am sure that many of our colleagues are asking themselves how can they determine whether or not these particular vehicles should be classified one way or another way. It sounds like a pretty technical question. What kinds of chassis are they built on? What kinds of engines do they have? What kinds of distributor do they have? What kinds of tires do they have? On and on.

That is why we have a Customs Service. The Customs Service is supposed to make these classifications. They do it in thousands of cases.

This is not an unusually complicated case. This is a typically complicated case as to whether or not a vehicle should be classified one way or another. We appropriate money to a Customs Service to make these classifications. And the Customs Service classified these vehicles as trucks. The Congress did not classify them that way. The Customs Service classified these vehicles as trucks.

And that decision was reversed not by the technicians at the Treasury Department who know something about the Customs Service but by the political people at the Treasury Department that know something about politics.

Let us go back into the history of this classification. The Customs Service made a lengthy investigation as to how to classify these vehicles and in 1989 they ruled that these vehicles should be properly classified as trucks.

There were many reasons for that decision. Part of the reasoning were the policies of various agencies of the U.S. Government, and in order to make those policies consistent, the argument was—and this was part of their reasoning—that the classification should be that these vehicles are trucks. But there was much, much more than that.

In February 1989, there was a memo from a Deputy Commissioner of the Customs Service. He had just completed an inspection of a Japanese MPV plant, a plant that manufactures the vehicles in question, and he wrote that after that inspection of that plant, these vehicles are clearly to be classified by Customs as trucks. Why? He said that the MPV is built in a truck factory, built on a truck chassis, built on a truck assembly line.

That is a Customs Service official eyeballing the facts. When the political people at the Treasury Department reversed this, they were eyeballing the politics. But when the Customs Service people whose job it is to make these classifications eyeballed the facts, they ruled that these vehicles should be classified under our laws as trucks.

And this is what the memo said:

> While it is accurate to say that the vehicle and the pickups are produced in the same factory, it is more precise to say that they are produced on the same assembly lines; line after line included both two-door and four-door vehicles intermingled with pickup trucks. The integration of these vehicles with the pickup truck was virtually complete.

This is the Customs Service memo, that "* * * on the basis of evidence gained from Japan's largest manufacturer of motor vehicles, the accuracy, indeed the perfection, of the Customs Service ruling, is confirmed." Japan itself calls these vehicles trucks, by the way. That same Customs Service memo that I just referred to stated that Japan's own classification documents designate these vehicles as trucks.

Even the Japan Motor Industry Guide published by the Japanese Automotive Manufacturers Association lists these vehicles as trucks.

Mr. President, a Customs Service letter to a Suzuki attorney regarding the classification of the Suzuki vehicle, Samurai, says the following—the advertising literature describes the Samurai as follows, this is now the advertising vehicle of the Samurai and that is the kind of vehicle we are debating here this morning—"Think of it as the handy, small delivery truck, sturdy truck chassis and frame. You call fill the Samurai with friends or load it with cargo. We even have a Samurai in a truck version which has no back seat and over 18 cubic feet of rear cargo space."

Mr. President, not only are these vehicles built as trucks, advertised by the Japanese as trucks, they are treated by our own governmental agencies as trucks for the purposes of complying with United States emissions and fuel economy standards, safety standards, as well as for luxury and gas-guzzler tax purposes.

And that letter from the former Customs Commissioner William von Raab, that letter should haunt every Member of this Chamber. It is not often that you get an appointee of an administration, a political appointee, that is so devastatingly critical of a political decision of that same administration. William von Raab was head of the Customs Service and he called the reversal of the Customs decision "shocking and alarming."

And these are his words—I am quoting von Raab, the Republican appointee, a Reagan appointee, his words criticizing the reversal of the Customs Service determination. Von Raab said this was "a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy."

I am going to repeat those words even though they have been quoted once before by Senator RIEGLE. I want to repeat them. Every American should hear them and I think most would gag on them. The reversal by the Treasury Department of the Customs Service ruling in this case was "a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. Government trade policy."

And he went on: "There was no justification for the extraordinary intervention by Treasury except politics. In fact," he wrote, "what I witnessed was the Treasury officials suspended the Customs' ruling without even understanding the merits of the case and then spent more than a month trying to find some solution that would accommodate foreign political pressures."

These are not the words of Senators from States that have an economic interest in the survival of the American auto industry. These are words of the U.S. Commissioner of Customs, a Reagan appointee, about the decision of the Treasury Department to reverse the Customs Service decision which is the subject of this resolution.

These vehicles are assembled and parts for them are produced in States across the United States. Thousands of employees in State after State, including my own, are involved in the production of these vehicles, and it is shocking to me that a decision of the professionals at the Customs Service would be reversed by the political people at the Treasury Department.

It is one thing when a double standard is applied against us by other countries. It is bad enough when Japan or Canada or Mexico or any other country discriminates against American products while they want to sell all their products here. It is disgraceful enough that we tolerate any country to discriminate against our products without placing reciprocal restrictions on their products—and I do not care if we are talking about Canadian beer or Japanese rice or Mexican automobiles, the point is the same. We have lost millions of jobs to discriminatory trade practices. It is bad enough, it is disgraceful enough that we have tolerated it, but to apply a double standard to ourselves is even more unthinkable.

To think that our Customs Service, the professionals there, would classify a vehicle as a truck and that then the

political people in the Treasury Department would reverse it, applying a double standard—because those same vehicles are considered trucks for emissions purposes, for safety purposes, for tax purposes on the gas guzzler tax—to think that we would apply a double standard against ourselves is abhorrent to me.

I hope that we would say that we are going to support the Customs Service. Because in the complexity of this issue, the technicalities of this issue, one thing shines through: The professionals that we put in charge to make thousands of classifications every week made this classification of these vehicles as trucks, and that is what we ought to restore. And it would be restored if this sense-of-the-Senate resolution is adopted and followed by the relevant committees.

Mr. President, I ask unanimous consent that a letter sent by the former Commissioner of Customs to all Members of the House, along with a Customs memorandum on classification of vehicles, be printed in the RECORD.

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

(A letter sent by the former Commissioner of Customs to all members of the House.)

JUNE 22, 1992.

Hon. DAN ROSTENKOWSKI,
*House of Representatives, Washington, DC.*

DEAR MR. ROSTENKOWSKI: It is my understanding that the Committee will soon consider H.R. 4318, a miscellaneous tariff bill that was reported by the Trade Subcommittee in February. At the time of the full Committee mark-up, an amendment will be offered which would reinstate a 1989 Customs Service decision concerning the classification of multipurpose vehicles (MPVs) which was overturned by the Treasury Department. Treasury's reversal of a Customs Service classification ruling, which was reached after a year long examination of the facts, was a shocking and alarming example of the influence which representatives of foreign businesses and their governments have come to expect with U.S. government trade policy. Since I was the U.S. Commissioner of Customs at the time of the original Customs Service ruling and the reversal by Treasury, I wanted to offer you my views on that decision.

On January 4, 1989, following a year long investigation, Customs ruled that sport utility vehicles and most small vans would be classified in tariff hearing HTS 8704, as light trucks. Based on all historical precedents, this should have been the end of the issue. Under U.S. law, the Customs Service has the responsibility for all such determinations or rulings concerning the appropriate classification of products upon import into the U.S. However, the following month, in an unprecedented action in response to foreign political pressure, Treasury reversed the proper Customs ruling, and concluded that two door MPVs would be classified as trucks, but that most four door MPVs would be classified as passenger cars, a decision that defies logic.

The January 1989 Customs Service decision was right on the merits, and correct under the law. After the Treasury Department action, the Deputy Commissioner of Customs further substantiated the original Customs decision during an investigation he conducted in Japan. There was no justification for the extraordinary intervention by Treasury, except politics. In fact, what I witnessed was that Treasury officials suspended the Customs ruling without even understanding the merits of the case, and then spent more than a month trying to find some solution that would accommodate foreign political pressures.

The Congress should reinstate the Customs Service decision to restore integrity to the process by which decisions affecting U.S. policy are reached, and make clear that the trade rules of the United States government cannot be manipulated by producers which profit so greatly from their participation in the U.S. market.

Sincerely,

WILLIAM VON RAAB.

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CUSTOMS SERVICE,
*February 15, 1989.*

To: Deputy Secretary McPherson.
Thru: Assistant Secretary for Enforcement and Operations, Commissioner of Customs.
From: Deputy Commissioner of Customs.
Subject: Classification of Vehicles.

On February 15, 1989, I had the opportunity to visit a Toyota manufacturing plant in Japan. Information obtained in that visit is pertinent to the decision on the classification of vehicles under the Harmonized Tariff System. Based on this visit, the accuracy of Customs classification is confirmed. Customs' classification of each of Toyota's vehicles is exactly the same as Toyota's—absolutely no difference. The factory we visited was manufacturing pickup trucks and Forerunners.

While we were cordially welcomed by Toyota, it was very clear that they did not want us to visit the Forerunner/pickup truck plant. Every effort was made to discourage us. They claimed the assembly line was in disarray, in changeover, not fully operating, in conversion to the 4-door model, etc. The real reason for not wanting us to see became clear soon after arrival; i.e., we saw a totally integrated truck-manufacturing facility, totally segregated from automobile and station wagon manufacture.

While it is accurate to say that Forerunners and pickups are produced in the same factory, it is more precise to say they are produced on the same assembly lines—the 4-door Forerunner included. Line after line included 2-door and 4-door Forerunners intermingled with pickup trucks. The integration of the Forerunner with the pickup truck was virtually complete.

The factory engineer pointed out these differences between the 2 vehicles and the processing: The finish on the Forerunner is superior because it is "designed for the transport of people." The back seat folds flat so it will be "more comfortable for persons to sleep." The rear-wheel suspension is heavier to "carry heavy luggage."

It is clear that the Forerunner is a truck, built in a truck factory, built on a truck chassis, built on a truck assembly line. It is hoped that this argument is not too simple in contrast to the complex and novel argument contrived by foreign manufacturers' representatives based on meeting notes, purposely deceptive information, and their own vivid imaginations. A brief visit provides striking and shocking confirmation of Customs' ruling.

A visit to the Toyota Headquarters was equally enlightening. You asked at our last meeting if we could develop a continuum from vehicles clearly designed "principally for the transport of persons" and those clearly designed for the "transport of cargo." Toyota itself has developed this continuum and classification system, in its internal literature, documentation, and working documents throughout its organization. On a huge 2-story wall, each Toyota vehicle is displayed on 2 large charts. On the left side of Chart 1 is each sedan and station wagon. On the left side of Chart 2 is each minivan, sport utility vehicle, and truck. The classification by Toyota is identical to that of Customs. The attached chart provides some small idea of the wall display. An even more dramatic representation will be delivered to you next week. Time did not permit additional visits. However, on the basis of evidence gained at Japan's largest manufacturer of motor vehicles, the accuracy, indeed perfection, of the Customs' ruling is confirmed.

Mr. Rohde accompanied me on this visit, and will be available to confirm and elaborate on our findings next week. If you are not completely convinced at this point to confirm the Customs' ruling in full, it is respectfully requested that you delay the decision until you have had the opportunity to be briefed by Mr. Rohde in more detail. This visit to Toyota's manufacturing plant was to Baltimore Harbor what lighting is to the lightning bug. In the meantime, I remain your man in Japan.

Mr. GLENN. Mr. President, I am pleased to join my colleague from Michigan in proposing this amendment. A mandatory restoration of the Customs Service classification of MPV's was included in the tax bill passed by Congress earlier this year but vetoed. This sense-of-the-Senate amendment is the very least we can do to move that objective forward.

Fundamentally, the amendment says that the Senate believes that the 1989 Customs Service ruling on the tariff classification of multipurpose vehicles [MPV's] was correct and should be reinstated. After a lengthy investigation, Customs determined that MPV's did not meet the criteria established for passenger cars, "motor cars and other motor vehicles principally designed for the transport of persons."

Customs said "to the extent that a vehicle is equally designed for the transport of goods and of persons, it cannot be classified as one that was principally designed for the transport of persons." It is important to note that the determination is not made on the basis of what the vehicles may be used for but what they are designed for. Hence the MPV's properly belonged to the tariff category which includes light trucks, with which MPV's share many key design features.

In an unprecedented move, the Treasury Department shortly thereafter, overruled the Customs classification decision. Treasury decided that two-door MPV's would be trucks while four-door MPV's would be cars. This unilateral trade concession is costing the U.S. Treasury an estimated $300 million a year. Even more important, in my view, this decision opens the door to increased competition in the U.S. market, the largest MPV market in the

world and the only U.S. vehicle segment which is enjoying substantial growth. U.S. companies pioneered the MPV market segment and are working hard to stay competitive.

In a June letter to House Ways and Means Chairman ROSTENKOWSKI, former Commissioner of Customs, William von Raab, stated "the January 1989 Customs Service decision was right on the merits, and correct under the law." I concur—Customs was right, Treasury was wrong, and the Congress should make the matter right again. This administration has given foreign MPV producers an unwarranted break with its classification decision. And then to add insult to injury, the administration determined that although Japanese minivans were being "dumped" in our market, there was no injury to American producers, so nothing would be done about the unfairly priced imports.

In Ohio we have 10 MPV production facilities employing 24,000 to 25,000 Ohioans. I say its time to stand up for American jobs and American workers. A strong showing of support for this amendment is a first step.

Mr. KOHL. Mr. President, today I rise in strong support of the pending amendment. I just wish that, instead of expressing the sense of the Senate it took the final commonsense step of requiring a change in the tariff rates.

The injustice of the current multipurpose vehicle [MPV] tariff classification has been with us since 1989, and the Riegle amendment would be a step to finally resolving the issue.

Trucks that are imported into this country are charged a 25-percent tariff, and cars are charged a 2.5-percent tariff. That simple fact has led to almost 20 years of very creative design on the part of importers of light trucks into this country—design aimed solely at making sure that the trucks imported are classified for tariff purposes as cars.

This has led to some strange importing practices: trucks sent in two pieces so they counted as truck parts and not trucks; plastic seats stuck in the back of Subaru pickups to turn them into passenger cars; and, most recently, the import of MPV's with four doors as opposed to two doors in order to qualify the vehicles as cars.

Now I don't blame our economic competitors from trying to game our tariff system. I don't blame them for trying to get their MPV's into the very lucrative American market at the lowest cost—and that means the lowest tariff—possible. What bothers me is that they are getting help from the U.S. Government. This administration is helping foreign MPV manufacturers pay the lowest possible tariff on their imports.

They are doing that by refusing to clarify that MPV's are trucks for tariff purposes. MPV's are trucks for purposes of EPA emission tests. MPV's are trucks for purposes of National Highway Traffic Safety Administration safety standards. MPV's are trucks for the purposes of Department of Transportation's fuel economy standards. But MPV's are cars for the purposes of taking advantage of a 2.5-percent tariff.

It wasn't always that way. In 1989, after extensive comment period and hearings, the Customs Department determined that MPV's are trucks for tariff purposes. That ruling lasted 9 days before it was overturned by the Treasury Department without hearing or comment period. And to this day, four-door MPV's are cars and two-door MPV's are trucks.

Mr. President, we are in an era of fierce, international economic competition. And most of that competition is focused on who gets to sell to the huge and prosperous U.S. market. In this contest, the United States should have a home court advantage. We are facing down highly motivated and organized countries and coalitions—Japan is the most obvious example, yet we squander our home turf advantage by maintaining a confusing, contradictory, an loophole-filled tariff classification system.

I commend Senator RIEGLE for trying to sort this mess out. His provision makes it clear that a truck is a truck is a truck. If we modified the tariff rate, we would raise $1 billion over the next 5 years—entirely from foreign sources. His provision urged the administration to do now what they should have done back in 1989. I urge my colleagues to support this amendment and then go beyond it by legislating a change in the tariff rate.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, we have heard a lot of quotes. Let me conclude with one from a January 12, 1989, memo from Lee Iaccoca:

> To: All Chrysler-Plymouth dealers, all Dodge dealers, all Jeep-Eagle dealers.
>
> We need your help today!
>
> The Treasury Department is currently reviewing a decision which was made last week by the Customs Service, which classified all import multi-purpose vehicles as trucks, subject to a 25-percent duty.
>
> This means that the Suzuki Samurai, the Mazda MPV, and all other MPV's will be faced with the 25-percent duty, which to you translates to a $2,000 per truck cost penalty to your competitors.

That is what we are faced with.

I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I hope we could have an up-or-down vote on this.

Mr. PACKWOOD. I think I would just as soon move to table.

I move to table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon [Mr. PACKWOOD] to table the amendment offered by the Senator from Michigan [Mr. RIEGLE].

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. JOHNSTON. Mr. President, I have a live pair with the Senator from Pennsylvania [Mr. WOFFORD]. If he were present and voting, he would vote "no." I have voted "aye." Therefore, I withhold my vote.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "nay."

On this vote, the Senator from Louisiana [Mr. JOHNSTON] is paired with the Senator from Pennsylvania [Mr. WOFFORD]. If present and voting, the Senator from Pennsylvania would vote "nay" and the Senator from Louisiana would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

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

The result was announced—yeas 36, nays 37, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—36

| | | |
|---|---|---|
| Adams | Coats | Grassley |
| Bingaman | Craig | Hatch |
| Bradley | Dodd | Hatfield |
| Breaux | Dole | Jeffords |
| Burns | Domenici | Kassebaum |
| Chafee | Gorton | Kennedy |

| | | |
|---|---|---|
| Kerry | Packwood | Smith |
| Lautenberg | Pell | Stevens |
| Lieberman | Pressler | Symms |
| Lott | Robb | Thurmond |
| Lugar | Rudman | Wallop |
| Mack | Simpson | Warner |

NAYS—37

| | | |
|---|---|---|
| Akaka | Ford | Moynihan |
| Baucus | Glenn | Nunn |
| Bentsen | Graham | Pryor |
| Biden | Harkin | Riegle |
| Bryan | Heflin | Rockefeller |
| Byrd | Hollings | Roth |
| Conrad | Inouye | Sarbanes |
| D'Amato | Kerrey | Sasser |
| Danforth | Kohl | Shelby |
| Daschle | Levin | Simon |
| DeConcini | McConnell | Specter |
| Dixon | Metzenbaum | |
| Exon | Mitchell | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Johnston, for

NOT VOTING—26

| | | |
|---|---|---|
| Bond | Fowler | Murkowski |
| Boren | Garn | Nickles |
| Brown | Gore | Reid |
| Bumpers | Gramm | Sanford |
| Burdick, Jocelyn | Helms | Seymour |
| Cochran | Kasten | Wellstone |
| Cohen | Leahy | Wirth |
| Cranston | McCain | Wofford |
| Durenberger | Mikulski | |

So the motion to lay on the table the amendment (No. 3203) was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PACKWOOD. 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 clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mrs. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. FOWLER], the Senator from Tennessee [Mr. GORE], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Colorado [Mr. WIRTH], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Colorado [Mr. BROWN], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. NICKLES], and the Senator from California [Mr. SEYMOUR] are necessarily absent.

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

The result was announced—yeas 36, nays 37, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—36

| | | |
|---|---|---|
| Akaka | Exon | Mitchell |
| Baucus | Ford | Moynihan |
| Bentsen | Glenn | Nunn |
| Biden | Graham | Pryor |
| Bryan | Harkin | Riegle |
| Byrd | Heflin | Rockefeller |
| Conrad | Hollings | Roth |
| D'Amato | Inouye | Sarbanes |
| Danforth | Kohl | Sasser |
| Daschle | Levin | Shelby |
| DeConcini | McConnell | Simon |
| Dixon | Metzenbaum | Specter |

NAYS—37

| | | |
|---|---|---|
| Adams | Grassley | Packwood |
| Bingaman | Hatch | Pressler |
| Bradley | Hatfield | Robb |
| Breaux | Johnston | Rudman |
| Burns | Kassebaum | Simpson |
| Chafee | Kennedy | Smith |
| Coats | Kerrey | Stevens |
| Cochran | Kerry | Symms |
| Craig | Lautenberg | Thurmond |
| Dodd | Lieberman | Wallop |
| Dole | Lott | Warner |
| Domenici | Lugar | |
| Gorton | Mack | |

NOT VOTING—27

| | | |
|---|---|---|
| Bond | Garn | Murkowski |
| Boren | Gore | Nickles |
| Brown | Gramm | Pell |
| Bumpers | Helms | Reid |
| Burdick, Jocelyn | Jeffords | Sanford |
| Cohen | Kasten | Seymour |
| Cranston | Leahy | Wellstone |
| Durenberger | McCain | Wirth |
| Fowler | Mikulski | Wofford |

So the amendment (No. 3203) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2923

(Purpose: Allowing penalty-free withdrawals during 1992 and 1993 from certain pension plans to purchase new automobiles)

Mr. SPECTER. Mr. President, I call up amendment No. 2923 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DOMENICI, proposes an amendment numbered 2923.

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

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

The amendment is as follows:

On page 885, line 20, insert "OR NEW AUTOMOBILES" after "HOMES".

On page 886, line 5, insert "OR NEW AUTOMBILE" after "HOME".

On page 886, line 14, strike "or".

On page 886, line 18, strike the period and quotation marks and insert "; or".

On page 886, between lines 18 and 19, insert: "(iii) to the extent such distributions are made during 1992 and 1993 and are used within 60 days to purchase a new automobile".

On page 892, line 11, insert ", distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

On page 892, line 21, insert ", for distributions during 1992 and 1993 which are used within 60 days to purchase a new automobile," before "or".

Mr. SPECTER. Mr. President, this is an amendment which would add new cars to the provisions to the IRA provisions in the bill relative to penalty-free withdrawals. At the present time the categories of expenditures are homes, tuition, medical expenses and unemployment compensation, and this would add the provision of new cars.

I have conferred with the distinguished chairman of the committee who has stated his agreement.

If I might have the attention of the chairman, Senator BENTSEN, I have stated the amendment, that it would add new cars to the items on IRA's for which expenditures may be made in addition now to homes, tuition, medical expenses and unemployment compensation.

This is being done in collaboration with the chairman, and this is an amendment, the substance of which had been passed by the Senate earlier this year. That was acceptable as far as the chairman was concerned.

Mr. BENTSEN. As the chairman of the committee, I support that amendment, obviously. I ask for any comments on this side of the aisle.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have to say to my colleague from Pennsylvania, I have no trouble with the amendment except I believe it ought to be limited. I will offer a second-degree amendment. I believe it ought to permit IRA money to be used only for the purchase of American made automobiles, and just as soon as I can draft an amendment I will offer that second-degree amendment. I hope it will be acceptable to my colleague from Pennsylvania.

AMENDMENT NO. 2923, AS MODIFIED

Mr. SPECTER. Mr. President, in light of this Saturday session and the interest in moving the bill forward, I would modify my amendment if we can avoid the second degree amendment and proceed for adoption at this time, to include the qualification of new cars.

I might say to my distinguished colleague from Ohio that I had earlier considered a buy American concept at

some length and candidly was concerned that it might cause more problems if it were included.

In light of the addition which the Senator from Ohio offers, and if we do not have a major fight on the other side, I would so modify my amendment.

Mr. METZENBAUM. I believe it would require modification in several points and the Senator from Pennsylvania will make those necessary changes.

Mr. SPECTER. It would and I do.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 885, line 20, insert "OR NEW AMERICAN MADE AUTOMOBILES" after "HOME".

On page 886, line 5, insert "OR NEW AMERICAN MADE AUTOMOBILE" after "HOME".

On page 886, line 14, strike "or".

On page 886, line 18, strike the period and quotation marks and insert "; or".

On page 886, between lines 18 and 19, insert:

"(iii) to the extent such distributions are made during 1992 and 1993 and are used within 60 days to purchase a new American made automobile".

On page 892, line 11, insert ", distributions during 1992 and 1993 which are used within 60 days to purchase a new American made automobile," before "or".

On page 892, line 21, insert ", for distributions during 1992 and 1993 which are used within 60 days to purchase a new American made automobile," before "or".

Mr. BENTSEN. Do we have any further questions on this side concerning the amendment? If not I am in favor of the amendment, as modified.

Mr. SPECTER. I conferred with the distinguished ranking member, Senator PACKWOOD, who has also stated to me that it is agreeable to the Republican side of the aisle.

The PRESIDING OFFICER. The Chair will advise the Senator from Ohio that before the modification can be promulgated, language would have to be offered.

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

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

INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES.

Mr. SPECTER. Mr. President, while that language is being modified, I had considered offering an amendment on a bill relating to minority and women capital formation on legislation which I had introduced on July 1, 1992, Senate bill 2920. I just yesterday received the advice from the Joint Committee on Taxation as to what the cost would be.

I know that that committee has been very heavily burdened. I find that the costs are substantial, so that I cannot proceed to press the amendment today. We do not have the funds for it. I think that it is not practical to pursue it. But I would like to describe it very briefly.

This amendment would provide for targeted tax incentives for equity investments in small minority and women-owned businesses and venture capital funds dedicated to investing in such businesses. Traditionally, minority and women-owned businesses have faced greater barriers than nonminority small business in accessing sources of private capital for startup acquisitions or to finance growth.

This has been confirmed in studies by the Federal Reserve Board, the Office of Technology Assessment, and the U.S. Commission on Minority Business Development.

There is a need, therefore, to facilitate private sector investment in these businesses. In view of the current urban crisis, this need is even more urgent now. Minority and women-owned small business development is critical to urban revitalization and job creation. This amendment would give investors who invest equity directly in small minority- or women-owned business, or in a venture capital fund dedicated to investing in such businesses, first, the option to elect either a tax deduction or tax credit; second, a partial capital gains exclusion; and, third, deferral of the remaining capital gain if it is reinvested in another small minority or women-owned business.

This bill would also impose a holding period and recapture requirements to avoid abuses.

If I might attract the attention of the chairman of the committee again, I had discussed with Senator BENTSEN a willingness of the committee to entertain hearings on this early next year—and I know that there will be hearings; we cannot have a special hearing for this bill—but I just wanted to confirm an arrangement that I had already discussed with the distinguished Senator from Texas that, if we did not cover it in the first hearing, it would be included, if not on the first, in an early hearing in the 103d Congress when other matters are taken up by the committee.

Mr. BENTSEN. I have stated to the distinguished Senator from Pennsylvania that we would include it as a part of the hearings in the early part of the session. I do not want to give him a definite date. I cannot, obviously, at this stage.

Mr. SPECTER. I thank the distinguished chairman. I realize he cannot give a specific date, but I thank him for that commitment to take it up at an early date.

I ask unanimous consent that the text of this amendment be printed in the RECORD at this point.

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

(Purpose: To amend the Internal Revenue Code of 1986 to provide incentives for investments in disadvantaged and women-owned business enterprises)

On page 948, between lines 2 and 3, insert:

**SEC. ____. INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES.**

(a) INVESTMENT INCENTIVES.—

(1) IN GENERAL.—Subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new part:

**"PART VI—INCENTIVES FOR INVESTMENTS IN DISADVANTAGED AND WOMEN-OWNED ENTERPRISES**

"Subpart A—Initial investment incentives.

"Subpart B—Capital gain provisions.

"Subpart C—General provisions.

**"Subpart A—Initial Investment Incentives**

"Sec. 1301. Deduction for investment in minority and women venture capital funds.

"Sec. 1302. Deduction for investment in small minority and women's business corporations.

"Sec. 1303. Taxpayer may elect credit in lieu of deduction.

"Sec. 1304. Recapture provisions.

**"SEC. 1301. DEDUCTION FOR INVESTMENT IN MINORITY AND WOMEN VENTURE CAPITAL FUNDS.**

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) qualified minority fund interests, and

"(2) qualified women's fund interests,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) LIMITATIONS.—The amount allowable as a deduction under subsection (a) for any taxable year shall not exceed $300,000 ($150,000 in the case of a separate return by a married individual).

"(c) QUALIFIED MINORITY FUND INTEREST.—For purposes of this part, the term 'qualified minority fund interest' means any stock in a domestic corporation or partnership interest in a domestic partnership if—

"(1) such stock or partnership interest (as the case may be) is issued after the date of the enactment of this part solely in exchange for money,

"(2) such corporation or partnership (as the case may be) was formed exclusively for purposes of—

"(A) acquiring at original issuance equity interests in qualified minority corporations, or

"(B) making loans to such corporations, and

"(3) at least 70 percent of the total bases of its assets is represented by—

"(A) investments referred to in paragraph (2), and

"(B) cash and cash equivalents.

For purposes of paragraph (2), the term 'equity interests' means stock, warrants, and convertible securities.

"(d) QUALIFIED WOMEN'S FUND INTEREST.—For purposes of this part, the term 'qualified women's fund interest' shall be determined under subsection (c) by substituting 'qualified women's corporations' for 'qualified minority corporations' in paragraph (2)(B).

**"SEC. 1302. DEDUCTION FOR INVESTMENT IN SMALL MINORITY AND WOMEN'S BUSINESS CORPORATIONS.**

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the sum of the aggregate bases of—

"(1) small minority business stock, and

"(2) small women's business corporations,

which are acquired by the taxpayer during the taxable year at its original issuance (directly or through an underwriter), and which are held by the taxpayer as of the close of such taxable year.

"(b) LIMITATIONS.—

"(1) NONCORPORATE TAXPAYERS.—

"(A) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowable as a deduction under subsection (a) for any taxable year shall not exceed the lesser of—

"(i) $50,000 ($25,000 in the case of a separate return by a married individual), or

"(ii) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by the aggregate amount allowable as a deduction under subsection (a) to the taxpayer for prior taxable years.

"(B) CARRYOVER.—If the amount otherwise deductible under subsection (a) exceeds the limitation under subparagraph (A)(i) for any taxable year, the amount of such excess shall be treated as an amount described in subsection (a) which is paid in the following taxable year.

"(C) SPECIAL RULE.—The amount allowable as a deduction under subparagraph (A) (i) or (ii) with respect to any joint return shall be allocated equally between the spouses in determining the limitation under subparagraph (A)(ii) for any subsequent taxable year.

"(2) CORPORATE TAXPAYER.—In the case of a corporation, the amount allowable as a deduction under subsection (a) (1) or (2), respectively, for any taxable year shall not exceed $100,000.

"(c) SMALL MINORITY BUSINESS STOCK.—For purposes of this part, the term 'small minority business stock' means any stock in a qualified minority corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small minority business stock for purposes of this section.

An election under paragraph (3), once made, shall be irrevocable.

"(d) SMALL WOMEN'S BUSINESS STOCK.—For purposes of this part, the term 'small women's business stock' means any stock in a qualified women's corporation if—

"(1) as of the date of the issuance of such stock, the total bases of property owned or leased by such corporation does not exceed $12,000,000,

"(2) such stock is issued after the date of the enactment of this part solely in exchange for money, and

"(3) such corporation elects to treat such stock as small women's business stock for purposes of this section.

An election under paragraph (3), once made, shall be irrevocable.

"(e) ISSUER LIMITATION.—The aggregate amount of stock for which an issuer may make an election under subsection (c)(3) or (d)(3) shall not exceed $5,000,000.

**"SEC. 1303. TAXPAYER MAY ELECT CREDIT IN LIEU OF DEDUCTION.**

"(a) MINORITY AND WOMEN VENTURE CAPITAL FUNDS.—

"(1) IN GENERAL.—A taxpayer may elect, in lieu of the deduction under section 1301, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 15 percent of the sum of the aggregate bases of—

"(A) qualified minority fund interests, and

"(B) qualified women's fund interest,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) LIMITATIONS.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), or

"(B) $7,000,000, ($3,500,000 in the case of a separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) CARRYOVER.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(b) SMALL MINORITY AND WOMEN'S BUSINESS CORPORATIONS.—

"(1) IN GENERAL.—A taxpayer may elect, in lieu of the deduction under section 1302, to take a credit against the tax imposed by this chapter for the taxable year in an amount equal to 10 percent of the sum of the aggregate bases of—

"(A) small minority business stock, and

"(B) small women's business corporations,

which are acquired by the taxpayer during the taxable year at their original issuance (directly or through an underwriter), and which are held by the taxpayer at the end of the taxable year.

"(2) LIMITATIONS.—The amount allowable as a credit under paragraph (1) for any taxable year shall not exceed the lesser of—

"(A) $250,000 ($125,000 in the case of a separate return by a married individual), or

"(B) $5,000,000, ($2,500,000 in the case of the separate return by a married individual), reduced by the amount of the credit allowed under paragraph (1) for all preceding taxable years.

"(3) CARRYOVER.—If the amount otherwise allowable as a credit under paragraph (1) exceeds the limitation under paragraph (2)(A) for any taxable year, the amount of such excess shall, subject to the limitation of paragraph (2), be treated as an amount which is allowable as a credit in the following taxable year.

"(c) APPLICATION WITH OTHER PROVISIONS.—For purposes of this title, any credit allowed under this section shall be treated in the same manner as a credit allowed under subpart B of part IV of subchapter A.

"(d) ELECTION.—An election under this section for any taxable year shall be made at such time and in such manner as the Secretary may prescribe and shall apply with respect to all acquisitions to which this subpart applies for such taxable year.

**"SEC. 1304. RECAPTURE PROVISIONS.**

"(a) BASIS REDUCTION.—For purposes of this title, the basis of any qualified minority or women's fund interest or small minority or women's business stock shall be reduced by the amount of the deduction allowed under section 1301 or 1302, or the credit allowed under section 1303, with respect to such property. In any case in which the deduction allowable under subsection (a) of section 1301 or 1302 (as the case may be) is limited by reason of subsection (b) of such section, or in any case in which the credit allowable under subsection (a)(1) or (b)(1) of section 1303 is limited by reason of subsection (a)(2) or (b)(2) of section 1303, the deduction or credit shall be allocated proportionately among the qualified minority or women's fund interests or small minority or women's business stock, whichever is applicable, acquired during the taxable year on the basis of their respective bases (as determined before any reduction under this subsection).

"(b) DEDUCTION RECAPTURED AS ORDINARY INCOME.—

"(1) IN GENERAL.—For purposes of section 1245—

"(A) any property the basis of which is reduced under subsection (a) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such property) shall be treated as section 1245 property, and

"(B) any reduction under subsection (a) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock the basis of which is reduced under subsection (a) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(2) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of this section, if—

"(A) a deduction was allowable under section 1301, or a credit was allowable under section 1303, with respect to any stock in a corporation or interest in a partnership and such corporation or partnership, as the case may be, ceases to meet the requirements of paragraphs (2) and (3) of section 1301(c), or

"(B) a deduction was allowable under section 1302, or a credit was allowable under section 1303, with respect to any stock in a corporation and such corporation ceases to be a qualified minority corporation or qualified women's corporation, whichever is applicable,

the taxpayer shall be treated as having disposed of such property for an amount equal to its fair market value.

"(c) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS.—

"(1) IN GENERAL.—If a taxpayer disposes of any property the basis of which is reduced under subsection (a) before the date 5 years after the date of its acquisition by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(A) on the additional tax which would have been imposed under this chapter for the taxable year in which such property was acquired if such property had not been taken into account under section 1301, 1302, or 1303, whichever is applicable;

"(B) for the period beginning on the due date for the taxable year in which the property was acquired and ending on the due date for the taxable year in which the disposition occurs.

For purposes of the preceding sentence, the term 'due date' means the due date (determined without regard to extensions for filing the return of the tax imposed by this chapter).

"(2) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a

tax imposed by this chapter, for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

**"Subpart B—Capital Gain Provisions**

"Sec. 1311. Exclusion of gain on sale by qualified minority or women's fund.
"Sec. 1312. Deferral of capital gain reinvested in certain property.

**"SEC. 1311. EXCLUSION OF GAIN ON SALE BY QUALIFIED MINORITY OR WOMEN'S FUND.**

"(a) GENERAL RULE.—Gross income shall not include 50 percent of any gain on the sale or exchange of any property by a qualified minority or women's fund if such property was acquired after the date of the enactment of this part and was held by such fund for at least 5 years.

"(b) QUALIFIED MINORITY FUND.—For purposes of this section, the term 'qualified minority fund' means any domestic corporation or domestic partnership which meets the requirements of paragraphs (2) and (3) of section 1301(c).

"(c) QUALIFIED WOMEN'S FUND.—For purposes of this section, the term 'qualified women's fund' means any domestic corporation or partnership meeting the requirements of paragraphs (2) and (3) of section 1301(c) (as modified by section 1301(d)).

**"SEC. 1312. DEFERRAL OF CAPITAL GAIN REINVESTED IN CERTAIN PROPERTY.**

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of an individual, any qualified reinvested capital gain shall be taken into account for purposes of this title—

"(1) in the 9th taxable year following the taxable year of the sale or exchange, or

"(2) in such earlier taxable year (or years) following the taxable year of the sale or exchange as the taxpayer may provide.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount of the gain to which subsection (a) applies shall not exceed $500,000, reduced by the aggregate amount of gain of the taxpayer to which subsection (a) applied for prior taxable years. This subparagraph shall be applied separately for property described in subsections (c)(2) (A) and (B) and for property described in subsection (c)(2) (C) and (D).

"(B) SPECIAL RULE.—The amount of gain to which subsection (a) applied on a joint return for any taxable year shall be allocated equally between the spouses in determining the limitation under subparagraph (A) for any subsequent taxable year.

"(2) INELIGIBILITY OF CERTAIN TAXPAYERS.—Subsection (a) shall not apply to—

"(A) a married individual (as defined in section 7703) who does not file a joint return for the taxable year, or

"(B) any estate or trust.

"(c) QUALIFIED REINVESTED CAPITAL GAIN.—For purposes of this section—

"(1) QUALIFIED REINVESTED CAPITAL GAIN.—The term 'qualified reinvested capital gain' means the amount of any long-term capital gain (determined without regard to this section) from any sale or exchange after the date of the enactment of this part to which an election under this section applies but only to the extent that the amount of such gain exceeds the excess (if any) of—

"(A) the amount realized on such sale or exchange, over

"(B) the cost of any qualified property which the taxpayer elects to take into account under this paragraph with respect to such sale or exchange.

For purposes of subparagraph (B), the cost of any property shall be reduced by the portion of such cost previously taken into account under this paragraph.

"(2) QUALIFIED PROPERTY.—The term 'qualified property' means—

"(A) any qualified minority fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(B) any small minority business stock acquired by the taxpayer at its original issuance (directly or through an underwriter),

"(C) any qualified women's fund interest acquired by the taxpayer at its original issuance (directly or through an underwriter), and

"(D) any small women's business stock acquired by the taxpayer at its original issuance (directly or through an underwriter).

Such term shall not include any property taken into account by the taxpayer under section 1301, 1302, or 1303.

"(3) REINVESTMENT PERIOD.—The term 'reinvestment period' means, with respect to any sale or exchange, the period beginning on the date of the sale or exchange and ending on the day 1 year after the close of the taxable year in which the sale or exchange occurs.

"(d) TERMINATION OF DEFERRAL IN CERTAIN CASES.—

"(1) CERTAIN DISPOSITIONS, ETC., OF REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the taxpayer disposes of any qualified property before the date 5 years after the date of its purchase—

"(i) any amount treated as a qualified reinvested capital gain by reason of the purchase of such property (to the extent not previously taken into account under subsection (a)) shall be taken into account for the taxable year in which such disposition or cessation occurs, and

"(ii) the tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(I) on the additional tax which would have been imposed under this chapter (but for this section) for the taxable year of the sale or exchange, and

"(II) for the period of the deferral under this section.

Any increase in tax under clause (ii) shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"(B) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of subparagraph (A), rules similar to the rules of section 1304(b)(2) shall apply.

"(2) LAST TAXABLE YEAR.—In the case of the last taxable year of any taxpayer, any qualified reinvestment capital gain (to the extent not previously taken into account under subsection (a)) shall be taken into account for such last taxable year.

"(e) COORDINATION WITH INSTALLMENT METHOD REPORTING.—This section shall not apply to any gain from any installment sale (as defined in section 453(b)) if section 453(a) applies to such sale.

"(f) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on any sale or exchange to which an election under this section applies, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified property,

"(B) the taxpayer's intention not to purchase qualified property within the reinvestment period, or

"(C) a failure to make such purchase within the reinvestment period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

**"Subpart C—General Provisions**

"Sec. 1321. Qualified minority corporation defined.
"Sec. 1322. Qualified women's corporation defined.
"Sec. 1323. Other definitions and special rules.

**"SEC. 1321. QUALIFIED MINORITY CORPORATION DEFINED.**

"For purposes of this part, the term 'qualified minority corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are members of a minority,

"(2) throughout the 5-year period ending on the date as of which the determination is being made (or, if shorter, throughout the period such corporation was in existence), such corporation has been engaged in the active conduct of a trade or business or in startup activities relating to a trade or business, and

"(3) substantially all of the assets of such corporation are used in the active conduct of a trade or business or in startup activities related to a trade or business.

**"SEC. 1322. QUALIFIED WOMEN'S CORPORATION.**

"For purposes of this part, the term 'qualified women's corporation' means any domestic corporation if—

"(1) 50 percent or more of the total value of the stock of such corporation is held by individuals who are women,

"(2) the management and daily business operations of the corporation are controlled by one or more women, and

"(3) the requirements of paragraphs (2) and (3) of section 1301 are met with respect to the corporation.

**"SEC. 1323. OTHER DEFINITIONS AND SPECIAL RULES.**

"(a) MINORITY INDIVIDUALS.—For purposes of this part, individuals are members of a minority if the participation of such individuals in the free enterprise system is hampered because of social disadvantage within the meaning of section 301(d) of the Small Business Investment Act of 1958.

"(b) CONTROLLED GROUP RULES.—

"(1) IN GENERAL.—All corporations which are members of the same controlled groups shall be treated as 1 corporation for purposes of this part.

"(2) CONTROLLED GROUP.—For purposes of paragraph (1), the term 'controlled group' has the meaning given such term by section 179(d)(7)."

(2) CONFORMING AMENDMENT.—The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following item:

"Part VI. Incentives for investments in disadvantaged and women-owned enterprises."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to interests acquired during the 2-year period beginning on the date of the enactment of this Act.

(b) SMALL BUSINESS CREDIT ENHANCEMENT.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) notwithstanding any other provision of law, the term 'private capital' of a company licensed under section 301(d) means the private, paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporated licensee—

"(A) including—

"(i) any funds invested in the company by a State or local government business development fund or bank or by a public or private pension fund; and

"(ii) commitments from institutional investors that meet the criteria established by the Administration based on such commitments; but

"(B) excluding any funds that are—

"(i) borrowed by the licensee from any source;

"(ii) obtained from the Administration through the sale of preferred securities; or

"(iii) derived directly or indirectly from any Federal source."

AMENDMENT NO. 2923, AS MODIFIED

Mr. SPECTER. Mr. President, I make an inquiry as to whether we have made those few amendments to the wording on new cars in the pending amendment so we might proceed with that amendment.

Mr. METZENBAUM. Are we now back on the amendment?

The PRESIDING OFFICER. The Chair will state that the modification has now been made, and, without objection, the incorporated modifications will be made a part of the original amendment.

The question is on agreeing to the amendment, as modified.

The amendment (No. 2923), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I would like to take a moment or two to have printed in the CONGRESSIONAL RECORD a number of documents which will set this forth in some greater detail without taking any extended time for discussion.

Mr. President, I ask unanimous consent that a letter from Interpublic Group of Companies, Inc., to the Secretary of the Treasury, Nicholas Brady, dated December 24, 1991, be printed in the RECORD.

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

THE INTERPUBLIC GROUP
OF COMPANIES, INC.,
*New York, NY, December 24, 1991.*

Mr. NICHOLAS F. BRADY,
*Secretary of the Treasury, Department of the Treasury, Washington, DC.*

DEAR NICK: I recently reviewed the Specter/Domenici Bill (S. 1984) which has the possibility of stimulating the economy in two key sectors—housing and automobiles—major indicators of economic vitality both with the so-called experts on the economy, but more importantly, with the consumer (not to mention the impact this would have on unemployment).

We amended some of the aspects of the Bill (see attachment) and put it into national consumer research; I found the results more than interesting, and I believe you and the White House should review the data and the approach as a possible major element in a package of measures for stimulating an economic recovery.

With due respect, I point out that the consumer confidence level, which is a major problem and has been so for many months, was not addressed. The past is the past but if scenarios had been worked out in advance (what if the economy did not respond, etc.), the Administration might be in a better position to be on the attack with Congress. Of course, the media has not helped the situation at all. If you consider that the 1981-82 recession which had almost 10% unemployment and interest rates in the high teens (but a solid banking system and reasonable ability to lend), versus what we have today where the primary problems of the lending institutions require not only larger downpayments but a stronger consumer creditworthiness as well, we can understand one of the major problems we face.

Because I share this concern and was intrigued by the Specter/Domenici approach, my company commissioned a study through a leading research company to estimate the number of American families who would make use of their IRA and 401K savings for housing and automobiles on a one-time basis, and to estimate the amount of money these families would invest above the levels they would spend without the use of these funds. Please note that the proposals provides that the IRA and 401K monies used would be tax free for five years, whereupon the consumer could put this money back into those retirement funds on a tax free basis (see attachment). Therefore, the program would be revenue neutral.

We have amended the Specter/Domenici Bill as follows:

A. We limited the use of IRA and 401K funds to housing and autos. These industries are the key industries for economic resurgence, and new vigor here would have a huge effect on the overall economy.

B. We suggested that autos purchased have at least 75% of content made in the USA. I recognize the GATT issue, but I believe our trading partners could be persuaded that a non-deficit 6 month domestic program that lifts the U.S. economy would be to their own benefit over time as well. Additionally, this provision certainly would shake up the Japanese which the President politically must consider.

The research, a national probability sample of 1,000 households, was conducted in the middle of December, and is representative of U.S.A. demographics by age, sex, religion and race. Let me summarize the findings on this basis:

1. This proposed use of IRA and 401K funds would increase intentions to buy or improve a home or to buy a car from 26 to 44 million families—a gain of 18 million families.

2. One in three (33.5%) American families claim they would use some of their IRA and/or 401K funds to buy a new home, improve their home or buy a car under this proposal. Of these, over 10,300,000 families say they are "very" likely to take positive action.

3. Another 20,700,000 households say they are "somewhat" likely to act per this proposal.

4. Of these 31,000,000 households, fully 65% say they would use the maximum $10,000. Another 18% report they would use more than $5,000 but less than $10,000. This proposed legislation would motivate 26,000,000 American families to spend more than $5,000 on housing and autos, with another 5,000,000 families spending less than $5,000.

5. If they do as they say, these 31 million families would theoretically transfer over $224 billion dollars from existing IRA and 401K funds to the housing and auto industries. According to the BEA, American families spent $647 billion in these two sectors in 1990—not including maintenance and operations. At a very minimum, the proposed action would produce impactful double-digit gains in both industries.

6. Over half (55%) of the 31 million families who say they would make use of IRA and/or 401K funds for housing and autos, report they do not intend to invest at this time in new or improve housing or buy a new car without this proposal. In other words, the Specter/Domenici proposal motivates many more people to act now. Using just this 55% figure, the impact would be over $120 billion in incremental spending coming into these two industries at this critical time.

I am very enthused about these findings. Although the sample size is not large, the responses are statistically reliable within 3%. Even if one applies a conservative adjustment to these stated consumer actions, the numbers are still very impressive.

I have heard a lot of qualitative research recently which suggests the President should adopt a more pro-American business stance. While we are all believers in free trade, there is a deep seated popular concern that the Japanese are receiving special treatment with respect to their markets versus ours. This viewpoint is being strengthened by the current U.S. auto industry problems and the attendant negative publicity. I believe this proposal is an appropriate response.

I do hope this study might be of help to you and the President. We would be happy to have our research analyst come to Washington to go over the detailed results with your staff or whomever you wish.

On a related note, a lot of us believe that a cut in the capital gains tax rate would be revenue positive and is the right thing to do. However, I believe the average American family is much more concerned with holding onto or getting jobs, and unless this tax change can be explained simply and succinctly and backed up with facts on how it creates jobs, we really should let it pass. Our indications are that this will be a detriment with the average person in getting a tax stimulus approved.

In my view, the direction proposed in the Specter/Domenici Bill is exactly right for this time and these conditions.

I hope you and your family have a very happy holiday, and I look forward to seeing you soon in the New Year.

Sincerely,

PHIL.

ATTACHMENT

AMENDED STATEMENT OF SENATOR SPECTER'S PROPOSAL AS USED IN RESEARCH

As you may know, recently the US economy has been stagnant. A proposal is before the US Senate to help get things moving again. It is intended to provide the economy with needed stimulation from consumers such as yourself. This Senate proposal would allow consumers to withdraw up to $10,000 from their own individual IRA or 401K accounts penalty free and without consequences.

The funds may be used within 6 months either for purchase of a home, for improvements to a home or for purchase of an automobile having at least 75% of its content made in the USA.

If consumers choose to eliminate the tax consequence, they only need to return the withdrawal to their IRA or 401K account within the next 5 tax years.

If consumers choose not to return the funds withdrawn, they can still reduce the tax consequences by paying tax on only ⅕ of the amount in each of the next 5 years.

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SUPPORT AN AMENDED SENATE BILL S-1984

AMERICANS USING AMERICAN MONEY TO INVEST IN THEMSELVES AND THE NATION

How Congress can help Detroit sell a million more new cars, help American builders sell 500,000 more new homes, and American tradesmen improve millions of old homes in the next 6 months.

Without costing the taxpayers a penny.

It's remarkable. It's immediate. And it's a conservative estimate based on an independent market research response to a more effective and more powerful approach to the Specter/Domenici Bill S.-1984.

Americans, when recently asked if they could use up to $10,000 of their money currently locked into IRA's and 401K's without penalty to purchase a new home, improve their current home, or buy an automobile or truck that is American-made, overwhelmingly answered "yes."

Indeed, 38% more people than are currently in the auto market said this would turn them from being bystanders into buyers. That's 4.8 million more people spending 65 billion new dollars. Out of a projected total of over $200 billion in purchasing power that this bill could unleash.

Additionally, they understood the only time qualification was that they do this in the next 6 months, and return the money to their accounts within 5 years to reinstate tax-free benefits without a taxable event taking place.

There are no adverse trade implications on the buying or improving of homes. And to those who question the trade implications on automobiles, the answer is that this is short term and should be seen in tandem with negotiating a voluntary Japanese auto import trade policy based on the Japanese-European quota model.

Mr. SPECTER. I further ask unanimous consent that a letter from the Interpublic Group of Companies to me, dated April 3, 1992, be printed in the RECORD.

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

THE INTERPUBLIC GROUP
OF COMPANIES, INC.,
*New York, NY, April 3, 1992.*

Hon. ARLEN SPECTER,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR MR. SPECTER: In December 1991, we commissioned a consumer survey—a national probability sample of 1000 adults—to learn how Americans would respond to the Specter/Domenici proposal S-1984. We described the proposal to these people, in consumer language. We told them the Senate proposal would permit them to withdraw up to $10,000 from their IRA's or 401K's without penalty if they used the monies to either buy a new car, make a home improvement or buy a new home within the next six months.

The results were very encouraging. Fully one out of every three households in the country said they'd like to take advantage of this Senate proposal . . . 31 million households said they would act on this proposal . . . if it were passed.

Ninety days later, we conducted a second round of research. This time we beefed up the questionnaire to make sure those Americans who said they would act on this Senate proposal were, in fact, qualified to act on the proposal.

The results of the second round of research are even more encouraging. Among the 26 million families that qualify . . . those who say they have an IRA, a 401K, or a Keogh plan and a household income of no more than $100K (75K for single heads) . . . fully *40%*, that is 10.5 million families, say they will take advantage of the Senate proposal to buy a new car, van or truck, make a home improvement or buy a new home.

We also asked *everybody* we interviewed, regardless of whether they qualify or don't qualify, whether they thought this proposal would be good for the economy.

69% of all American families think the Senate proposal will have a positive impact on our economy. That is, 65,000,000 families favor seeing this proposal passed. Even more impressive is the fact that 74% of America's middle-class families (HH income from $25K to $50K) believe the Senate proposal will stimulate our economy.

Both rounds of research say that Americans . . . those qualified and those who *wish* they were, are very much in favor of seeing this Senate proposal passed. Not once but twice they told us they would use their own funds to get our economy moving.

The proposal is powerful. It stimulates people to spend money; their own money. It motivates people to take action and buy a new home, make a home improvement or buy a new car. The research shows there are 10,500,000 qualified families who would withdraw money from their IRA's, their 401K, or their Keogh plan to make these investments.

Nearly 50% of these qualified families, (5,000,000) were motivated to invest in these properties *solely* by the Senate proposal. That is, 5 million families did not intend to buy a new car, a new home or do any home improvements before this Senate proposal made it possible for them to consider taking these actions within the next six months.

These 5 million families say they will withdraw $32 billion dollars to invest: 2.1 million families investing $14 billion for new cars; 1.2 million families investing $10 billion for new homes and 1.6 million families investing $8 billion in home improvements.

But that's not all. The $24 billion for new homes and new cars is "seed money". It needs to be multiplied by the money they would take from their savings or borrow from banks to complete their purchases. (We're making the conservative assumption that the money they withdraw to spend on home improvement is their *total* investment.)

The average cost of a "new" home last year was $95,000. The money they would "borrow" from their plans (on average $7,900) needs to be multiplied by about 11X to equal the balance of the down payment (assuming 20%) and mortgage requirements to complete the purchase cost of a new home. That alone is an additional $106 billion dollars that would flow from lending institutions to support these intentions.

The average cost of a new car, van or truck last year was $13,500. In the survey new car buyers "borrowed" $6,450 (on average) from their plans. The additional funds from savings or a bank loan needed to complete the purchase is $7,050. The multiplier is 1.1X. Therefore, the "seed money" this Senate proposal would put into the economy generates an additional $15 billion dollars in economic activity.

Bottom line is that the Senate proposal would free up $32 billion from retirement plan savings to help get our economy moving. When multipliers are included the money Americans would use to complete their purchases results in a total of $153 billion . . . home purchase $116 billion; new car purchase $29 billion; home improvement $8 billion dollars that would move into our economy.

And 75% of these qualified Americans say they will return the money they borrow from their plans within the time frame required to avoid paying any penalties or additional taxes.

As I indicated, the findings were encouraging when we initially surveyed the issue in December 1991.

Findings in the March 1992 survey make it very conclusive. This is a plan which Americans believe in. A plan from which they and our nation's economy will benefit. Clearly this proposal has a powerful triggering effect. It comes at a time when the effect of lowered interest rates is being blunted by the more restrictive consumer lending policies of our financial institutions. This proposal allows responsible access to funds. These will go to responsible investment. Economic activity will be triggered, jobs ensured and created. It provides a stimulus we need right now.

I urge you to make this opportunity available to our citizens. There is no doubt of their response and there can be little doubt concerning its positive and immediate economic impact.

With regards,

PHILIP H. GEIER, Jr.,
*Chairman and CEO.*

NOTE.—This letter is being sent to each member of the House Ways and Means Committee and the Senate Finance Committee and to Senators Domenici and Specter. A copy of this letter is being sent to The White House.

Mr. SPECTER. I further ask unanimous consent that a report to me from Chairman Greenspan be printed in the RECORD.

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

BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM,

Date: February 12, 1992.

Subject: Analysis of Senator Specter's Proposal Regarding Penalty-Free Withdrawals from Retirement Accounts.

This memorandum analyzes Senator Specter's proposal regarding penalty-free withdrawals from retirement accounts, focusing especially on the issue of how great an impact the action would have on household spending. Section I describes in greater detail the provisions of the proposal; Section II discusses some analytical considerations bearing on the spending issue; Section III presents some relevant estimates derived from the national Survey of Consumer Finance; Section IV offers some conjectures on the likely spending effects.

I. THE PROPOSAL

The proposed legislation would allow certain taxpayers to make penalty-free withdrawals from retirement-type accounts, provided the withdrawals are applied toward one or more qualified purchases. Specifically:

—The proposal would allow withdrawals from IRA's, Keoghs, and 401(k)'s.

—Eligibility would be restricted to those earning less than $100,000 (if married and filing jointly), $50,000 (if married and filing separately), or $75,000 (all others).

—According to the legislation in its current form, qualified expenditures would include the purchase or improvement of real property, and the purchase of durable goods. In his floor speech and in other communications, Senator Specter has also mentioned medical expenses and college tuition.

—Each taxpayer would be allowed to withdraw no more than $10,000.

—Withdrawals would have to be made on or before December 31, 1992; associated expenditures would have to be made either (a) within six months of the withdrawal, or (b) by the time the taxpayer files his/her return for the relevant tax year (in most cases, no later than April 15, 1993). The more restrictive of (a) or (b) would be the binding rule.

—Regular tax liability on the withdrawn funds would still be owed; however, the liability could be spread over a period of four years following the withdrawal.

—In his floor speech and written communications, Senator Specter also mentions the possibility of allowing those who take advantage of his proposal to replenish the funds in their IRA or 401(k) over the five years following the withdrawal. The existing legislation does not contain this provision.

II. ANALYTICAL CONSIDERATIONS

Several analytical points are worth making about the likely impact of the proposal on household spending:

—It is useful to think of qualifying households as falling in one of three categories: not liquidity-constrained, extremely liquidity-constrained, and somewhat liquidity-constrained.

—Households that are not liquidity-constrained will probably not be interested in tapping their retirement savings, because doing so would remove those savings from their current tax-sheltered status.

Households that are *extremely* pressed for the funds will be tapping their funds in any event, and would choose to pay the 10 percent penalty in the absence of Senator Specter's proposal. The *extra* spending generated by the Senator's proposal via these households would be only $1,000—smaller by an order of magnitude than the overall amount of $10,000.

Therefore, the proposal likely would have its greatest impact on the spending of the intermediate group: those households that are somewhat liquidity-constrained, but not too much so. These households will be induced to make a withdrawal that they otherwise would not have made.

About two-thirds of 401(k)s have borrowing provisions. Therefore, owners of these accounts have access to the wealth they hold in 401(k)s even in the absence of Senator Specter's proposal. Evidence suggests that many households take advantage of these loan provisions. For example, one recent survey found that 9 percent of account-holders initiated a new loan during 1990, while 21 percent had a loan outstanding at the end of 1990.[1] Roughly 90 percent of such plans allow general-purpose loans (and therefore cover a wider range of expenditures than would Senator Specter's plan).

The tax amortization feature probably will make relatively little difference to the proposal's influence on spending: Standard theories of consumer behavior predict that taxpayers who know that a liability is outstanding will be inclined to set aside most, if not all, of the tax liability upon receipt of the withdrawal. This prediction is supported by available evidence concerning the relationship between ordinary income tax refunds and consumer spending.[2, 3]

III. EMPIRICAL EVIDENCE

The following estimates from the 1989 Survey of Consumer Finance shed further light on the likely impact of the proposal on household spending:

According to the SCF, qualified accounts (including IRAs, 401(k)s, Keoghs, thrift, and savings plans) amounted to $1.239 trillion in 1989.[4]

Of this amount, $893 billion was held by families headed by someone aged less than 59 years old. Older people already can withdraw funds from retirement accounts without penalty.

Next, $736 billion was held by families meeting both the income constraints specified under the Specter proposal and the above-mentioned age cutoff.

Ownership of that $736 billion was highly concentrated, however. If we count only the first $10,000 in retirement funds per family, then the qualified pool of funds shrinks to only $136 billion.

Median liquid assets held by all families meeting the proposed age and income criteria were $1,950.[5] Among families reporting ownership of some retirement funds, median liquid asset holdings were $6,180. Among families holding at least $5,000 in retirement funds, median liquid asset holdings were $9,800. This result conforms with the common finding that those who save via IRAs and Keoghs also tend to save by other means. Families that are holding substantial amounts outside their retirement accounts will be less interested in tapping their retirement funds if given the opportunity to do so penalty-free.

Transaction costs could be sufficiently great to persuade some families who otherwise would take advantage of Senator Specter's proposal not to liquidate their IRAs or 401(k)s. These costs would include, for example, early withdrawal penalties on time deposits and broker commissions.

IV. SPENDING EFFECTS

A fundamental fact should be kept in mind while assessing the likely influence of the proposed program on household spending: The proposal would do nothing to raise the wealth of households, other than of those who anticipated incurring a withdrawal penalty. Therefore, the proposal would influence household spending mainly by relaxing liquidity constraints currently binding on some households. The above data from the SCF suggest that this impact probably would not be very great, given that a considerable portion of the available retirement-related wealth is owned by families holding substantial amounts of other liquid assets.

Some withdrawals undoubtedly would occur if the proposal were to be adopted, but the incremental effect of the proposal on expenditure will be less than the total amount withdrawn for two reasons: First, some withdrawals would have been taken, even in the absence of the program, by families extremely pressed for liquidity. Second, some withdrawals from 401(k)s will represent, in effect, a substitution of outright withdrawal for borrowing that would have taken place in the absence of the program.

There is no way of predicting with any confidence the amount of additional expenditure that would be forthcoming in response to implementation of the proposal. It seems reasonable to guess, on the basis of the evidence presented here, that the increment to spending would amount to less than one percent of personal consumption expenditure (or $40 billion)—and it quite possibly would be substantially less. If the permissible penalty-free withdrawal were to be raised to $20,000, it would raise the amount released on the estimates above from $136 billion to $206 billion. However, while the spending effect probably would be greater, it would likely be only modestly so, because the additional balances affected would, on average, be held by individuals who are less liquidity-constrained.

FOOTNOTES

[1] Hewitt Associates, Lincolnshire, IL. News and Information Release, January 23, 1992.

[2] See "Income Tax Refunds and the Timing of Consumer Expenditure." David W. Wilcox, mimeo, Federal Reserve Board.

[3] Low-income taxpayers will experience some benefit from being allowed to smooth some of the liability into lower tax brackets. However, evidence from the Survey of Consumer Finance suggests that eligible families would have higher-than-normal incomes, and so would not benefit from this aspect of the proposal to any great degree.

[4] Respondents to the 1989 SCF reported total holdings in IRAs and Keoghs of $598 billion. For comparison, the Employee Benefit Research Institute puts the total for IRAs and Keoghs in 1989 at $494 billion. SCF respondents reported an additional $295 billion in 401(k)s, quite close to the estimate for 1988 of $277 billion based on data from the Department of Labor's Form 5500. Finally, SCF respondents reported $346 billion in thrift or saving plans, or other defined-contribution plans with borrowing provisions.

[5] Liquid assets were defined as the sum of checking accounts, money market accounts, CDs, other bank accounts, mutual fund holdings, saving bonds, other government and private bonds, direct stock holdings, and accounts held at brokers.

Mr. SPECTER. I would like to take just a moment, Mr. President, to comment about the amendment.

I first ask unanimous consent that Senator DOMENICI be added as an original cosponsor to the amendment.

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

Mr. SPECTER. Mr. President, the origin of this amendment occurred about a year ago when it was obvious that the United States was moving toward a significant recession and Senator DOMENICI and I took a look at possible ways to inject capital into the economy, extending consumer purchasing power.

[1] Footnotes at end of the report.

Because of the budget arrangement, it was not possible for the Government to prime the pump, and we noted that there were other funds, principally the IRA accounts and related accounts, which had some $800 billion. We noted at that time that the so-called Bentsen-Roth Super IRA bill had more than 70 cosponsors, of which I was one, and I believe Senator DOMENICI—he nods in the affirmative—was another.

We noted that there was a great deal of sentiment that in the new Super IRA, the funds should be used for three items: homes, tuition and medical expenses. To that, we added cars and had a provision that existing IRA's and related funds up to $800 billion could be used in 1992 without any penalty and without any tax up to $10,000 for middle-income Americans.

We secured at that time estimates on a survey conducted by the Interpublic Group, which cost approximately $30,000. They then published a full-page add in USA Today referring to the Specter-Domenici bill, S. 1984, where they had estimates that there would be up to $120 billion injected into the economy. That amendment was passed earlier by the Senate, but it did not survive conference and the bill finally was not enacted in any event.

Now we have come back to this legislation and there has been a modification. The original Bentsen-Roth amendment did not provide for rollovers of the preexisting IRA's prior to 1986, and then the later legislation which is on the floor today does provide for those rollovers.

So while we do not have the precise line of what Senator DOMENICI and I had advocated with respect to the limitation, we do have, with enactment, the availability of this fund of some $800 billion in IRA's and related accounts which will be available to stimulate consumer purchasing power.

I regret, Mr. President, that we were not able to enact this legislation last year. When I made a speech on the Senate floor last November 19, almost a year ago, urging the adoption of this provision, I asked that the Senate stay in session December and January and move to try to stimulate an economic recovery. And, without dwelling on that unduly, it was not done. Had we enacted this legislation in mid-1992, we might well be out of the recession.

But at least today we are moving forward with the essence of what Senator DOMENICI and I had proposed, considering the rollover amendment in the Bentsen-Roth Super IRA.

So I am pleased that we have had the addition of the cars, and I have accepted the amendment on the new cars. It is my hope that this will be enacted, and then we will have this $800 billion, which is in addition to the approximately $3 trillion in other investment accounts.

I have recited this somewhat hurriedly, Mr. President, because there are other matters to be considered.

I thank my colleague from Texas and the distinguished Republican leader, and I yield the floor.

Mr. DOLE. Mr. President, I want to report to the chairman of the committee and Senator PACKWOOD that I think on our side now, unless somebody objects, there are no amendments on this side that would require rollcall votes. There might be voice votes on some.

I again urge my colleagues that your amendment is going to have more merit if you do not talk so long. We have about 74 Members left, and I think there are a number of others who will be leaving, so if we intend to finish the bill today, I urge my colleagues—and I can only speak to my colleagues on this side of the aisle—if you have amendments, let us offer them as quickly as you can.

Hopefully, on the one amendment that may still require a rollcall, if the Senator from Ohio would offer his amendment, that would certainly be appreciated by a number of our colleagues on either side of the aisle.

Mr. BENTSEN. Mr. President, I say in response, first, I am most appreciative of that, but I want it understood the managers of the bill do not support that particular amendment.

AMENDMENT NO. 3204

(Purpose: Technical amendments)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It makes certain technical changes in the bill, correcting drafting errors and the like. And this amendment has been cleared by the managers from both sides. I particularly would like to thank Senator PACKWOOD for his assistance in that regard.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3204.

Mr. BENTSEN. 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 885, after line 16, insert:

(f) OTHER AMENDMENTS.—

(1) Section 408A(d)(2)(B)(iv), as added by subsection (a), is amended by striking "Under" and inserting "Except as provided in".

(2) Section 408A(e)(2), as added by subsection (a), is amended by adding at the end the following new sentence: "This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account."

On page 894, line 11, insert ", 403(a)(4), or 403(b)(8)" after "402(c)".

On page 1028, line 16, strike "and".

On page 1028, line 20, insert ", and" after the quotation marks.

On page 1028, between lines 20 and 21, insert:

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

On page 1065, between lines 1 and 2, insert:

(14) Section 401(k)(2)(B)(i)(III).

On page 1096, line 7, insert **"AND RETIREMENT INCOME POLICY"** after **"PLANS"**.

On page 1096, line 10, insert "and Retirement Income Policy" after "Plans".

On page 1096, line 25, strike "Federal" and insert "private".

On page 1097, strike lines 4 though 6, and insert:

"(1)(A) It shall be the duty and function of the Commission to conduct a full and complete review and study of—

"(i) trends in retirement savings in the United States;

"(ii) existing Federal incentives and programs that are established to encourage and protect such savings; and

"(iii) new Federal incentives and programs that are needed to encourage and protect such savings.

"(B) In fulfilling its duties under paragraph (1), the Commission shall address—

"(i) the amount and sources of Federal and private funds, including tax expenditures (as defined in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622)), needed to finance the incentives and programs referred to in subparagraph (A)(ii) and any new Federal incentive or program that the Commission recommends be established;

"(ii) the most efficient and effective manner, considering the needs of retirement plan sponsors for simplicity, reasonable cost, and appropriate incentives, of ensuring that individuals in the United States will have adequate retirement savings;

"(iii) the workforce and demographic trends that affect the pensions of future retirees;

"(iv) the role of retirement savings in the economy of the United States;

"(v) sources of retirement income other than private pensions that are available to individuals in the United States; and

"(vi) the shift away from insured and qualified pension benefits in the United States.

On page 1097, lines 17 through 19, strike "reviewing existing Federal incentives and programs that encourage and protect private retirement savings" and insert "setting forth the results of the study under subsection (d)(1)".

On page 1097, line 21, after the period insert "The recommendations shall include measures that address the needs of future retirees for—

"(1) appropriate pension plan coverage and other mechanisms for saving for retirement;

"(2) an adequate retirement income;

"(3) preservation of benefits they accumulate by participating in pension plans;

"(4) information concerning pension plan benefits; and

"(5) procedures to resolve disputes involving such benefits.

A recommendation of the Commission for a new Federal incentive or program that would result in an increase in the Federal budget deficit shall not appear in the report unless it is accompanied by a recommendation for offsetting the increase.

On page 1101, in the matter between lines 18 and 19, insert "and Retirement Income Policy" after "Plans".

On page 1531, strike lines 5 through 8 and insert the following:

(D) Section 401(a)(31)(D) is amended—

(i) by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust", and

(ii) by adding at the end the following new sentence: "In the case of an annuity contract under section 403(b), the term 'eligible retirement plan' shall include only an individual retirement plan and an annuity contract described in section 403(b)(1)."

On page 1531, lines 13 through 15, strike "(or in the case of an annuity contract under section 403(b), in a rollover to which section 402(c)(8) applies)".

On page 1531, line 18, after "applies" insert "(or in the case of an annuity contract under section 403 (a) or (b), in a rollover to which section 403 (a)(4) or (b)(8) applies)".

On page 1532, between lines 2 and 3, insert:

(J) Section 402(f)(2)(B) is amended—

(i) by striking "or" and inserting a comma, and

(ii) by inserting ", or paragraph (8) of section 403(b)" after "section 403(a)".

On page 1532, strike lines 9 through 11, and insert:

(C) Section 3405(c)(3) is amended by striking "(or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))".

On page 1533, line 9, strike "(8)" and insert "(9)".

On page 1533, between lines 9 and 10, insert:

(C) Section 403(b)(8)(B) is amended by striking "(7)" and inserting "(9)".

On page 1533, line 10, strike "(C)" and insert "(D)".

On page 1533, line 12, strike "(D) Section 522(d)" and insert "(E) Section 522(d)(2)".

On page 1533, line 20, strike "and".

On page 1533, line 23, strike the period and insert "and".

On page 1533, between lines 23 and 24, insert:

(iii) by inserting "(and section 402(f) of such Code, as amended by section 521)" after "section".

(F) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PAYMENTS.—The amendments made by this section (and section 402(f) of such Code, as amended by section 521) shall not apply to any distribution—

"(A) which is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before January 1, 1993, or

"(B) which is made—

"(i) before July 1, 1993, or

"(ii) on or after July 1, 1993, but only if such distribution is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before July 1, 1993, by reason of a death, disability, or separation from service occurring before January 1, 1993.", and

(ii) by inserting "or (3)" after "(2)" in paragraph (1).

On page 1533, line 24, strike "(E)" and insert "(G)".

page 1534, between lines 4 and 5, insert:

(H) Section 402(c)(9) is amended by striking "; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution".

On page 1800, line 9, insert "or indirectly" after "directly".

On page 1800, line 12, strike "an" and insert "a direct or indirect".

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

The amendment (No. 3204) was agreed to.

Mr. BENTSEN. 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.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand my friend from Rhode Island would like 30 seconds. I yield 30 seconds without losing my right to the floor.

Mr. CHAFEE. Mr. President, as I understand it, the Specter amendment, which was permitting withdrawals from the IRA's for the purchase of new cars, was amended by the Senator from Ohio so they would have to be new American cars. I would like to ask the Senator from Ohio, am I correct? That Specter amendment from the IRA withdrawals without penalties for the purchase of new cars, he amended it to say new American cars?

Mr. METZENBAUM. That is correct.

Mr. CHAFEE. That is agreed to; it is over with. I want to say I am opposed to that. I think just limiting it to new American cars is a mistake. I presume it is against GATT and also, who knows what an American car is, what is the definition of an American car?

I just wanted to go on record I am opposed to that. I am for the Specter amendment as originally presented but not as amended by the Senator from Ohio.

AMENDMENT NO. 3205

(Purpose: To amend the Internal Revenue Code of 1986 to provide for infrastructure facilities bonds, and for other purposes)

Mr. DOMENICI. 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 New Mexico [Mr. DOMENICI], proposes an amendment numbered 3205.

Mr. DOMENICI. 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 971, line 17, strike "10-taxable year" and insert "7-taxable year".

On page 972, line 2, strike "10-taxable year" and insert "7-taxable year".

On page 1811, after line 9, insert the following new section:

**SEC. . INFRASTRUCTURE FACILITIES BONDS.**

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt faciiity bonds) is amended—

(1) by repealing paragraphs (4), (5), and (6), and

(2) by striking paragraph (10) and inserting the following new paragraph:

"(10) infrastructure facilities,".

(b) INFRASTRUCTURE FACILITIES.—

(1) IN GENERAL.—Section 142, as amended by section 1103(b), is amended—

(A) by redesignating subsection (e) as subsection (k), and

(B) by inserting after subsection (d) the following new subsection:

"(e) INFRASTRUCTURE FACILITIES.—For purposes of subsection (a)(10), the term 'infrastructure facilities' means—

"(1) sewage facilities,

"(2) solid waste disposal facilities,

"(3) qualified hazardous waste facilities, and

"(4) facilities for the furnishing of water."

(2) CONFORMING AMENDMENTS.—

(A) Section 142(h) is amended by striking "subsection (a)(10)" and inserting "subsection (e)(3)".

(B) Section 142(k), as redesignated by paragraph (1)(A), is amended, by striking "subsection (a)(4)" and inserting "subsection (e)(4)".

(c) INFRASTRUCTURE FACILITIES BONDS EXEMPTED FROM VOLUME CAP.—

(1) IN GENERAL.—Section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting ", and", and

(C) by adding at the end the following new paragraph:

"(5) any exempt facility bond issued as part of an issue described in section 142(a)(10) (relating to infrastructure facilities)."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (h) of section 146 (relating to exception for government-owned solid waste disposal facilities) is hereby repealed.

(B) Section 146(k) (relating to facility must be located within State) is amended—

(i) by striking "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraph (2)",

(ii) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5) for an output facility, if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(d) INFRASTRUCTURE FACILITIES BONDS EXEMPTED FROM DETERMINATION OF AMT.—Subparagraph (C) of section 57(a)(5) (relating to tax-exempt interest) is amended by adding at the end the following new clause:

"(v) EXCEPTION FOR INFRASTRUCTURE FACILITIES BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued as part of an issue described in section 142(a)(10)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

Mr. DOMENICI. Mr. President, this was on the list that was agreed to by unanimous consent. It is the Domenici environmental infrastructure bonds amendment.

I am going to try to be brief because I understand where we are, in terms of all the other Senators and their time. But I want to try to make a point and hopefully the managers might agree to accept this amendment.

Let me suggest, if you go out into the hinterland and talk to the people who run our cities, be they large cities or small cities, or even poor little

towns and poor counties, the one thing you hear almost constantly is, "Why do you continue to give us so many mandates and then you do not help us pay for them?"

Now it is even becoming more specific because they are saying," "Why are you giving us so many environmental mandates and not helping us pay for them?"

This amendment has been in the mill for about 5 years. Two different groups have studied the physical infrastructure needs of our country and this amendment now is supported by the National League of Cities, Government Finance Officers Association, and the Council of Infrastructure Financing Authorities.

I send a copy of the letter that the Council of Infrastructure Financing Authorities sent to the chairman and ask unanimous consent it be printed in the RECORD.

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

AUGUST 5, 1992.

Hon. LLOYD BENTSEN,
*Chairman, Senate Finance Committee, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: During consideration of H.R. 11, Senator Pete Domenici plans to offer an amendment related to tax-exempt financing of environmental infrastructure facilities. The amendment is similar to the S. 90, introduced by Senators Domenici and Boren, which the Finance Committee considered at a hearing last year. We are writing on behalf of the following organizations to urge that you support this amendment when it reaches the Senate floor: Council of Infrastructure Financing Authorities, Government Finance Officers Association, and National League of Cities.

Under the proposed amendment, state and local bonds to finance sewage, solid waste, hazardous waste, and water facilities (as currently defined in the tax code) for the general public would fall into a new category of "infrastructure bonds." These bonds would automatically be categorized as governmental rather than private activity bonds. Thus, local governments could choose to have private involvement in the financing, ownership, or operation of public environmental facilities without being subjected to the private activity bond restrictions. In addition, governments would be freed from their current concern that even a publicly owned and operated facility might be classified as "private" due to large numbers of commercial or industrial users to who contract with the facility on a different basis than the general public.

This legislation would help address a major issue between the federal government and state and local governments: the imposition of federal mandates without the provision of funding needed to comply. In few areas has this problem been as serious as in the area of environmental law. Thousands of local governments are faced with enormous costs for upgrading their water and waste facilities to meet federal standards.

While the Domenici amendment would not solve this problem entirely, it would at least remove some of the obstacles that the tax code has placed in the way of financing these facilities through traditional debt and through more innovative public-private partnerships. It would provide long overdue recognition that an environmental facility that serves the general public and is mandated for public health and safety should not be considered a "private activity."

Some of the provisions of S. 90 have been deleted from this amendment in order to minimize the revenue costs. The amendment does not have S. 90's miscellaneous category which allowed infrastructure bonds to be used for any federally mandated environmental facility. Nor does it contain the accelerated depreciation provisions of S. 90.

The Domenici amendment would take a modest, but very important step towards addressing a serious national problem. It would do so at a negligible revenue cost. We hope that we can count on your support for this legislation.

Sincerely,

JAMES N. SMITH,
*Executive Director, Council of Infrastructure Financing Authorities.*

Mr. DOMENICI. Mr. President, what this does is the following. It is very simple but I believe it is very profound. It says we are going to set up a new tax-free bond in the United States. It is going to be known as the environmental infrastructure bond. It is designed to attract private financing to help our country's infrastructure needs. That means that in the ensuing decade, and the decade that follows, as interest rates go up, and financing environmental projects gets more costly, and surely they will, that our communities are going to be able to finance the infrastructure for environmental control items such as water systems, sewer systems and related environmental control; they are going to be able to finance those with tax exempt bonds.

Some might say, Senator, we already have tax exempt bonds. Do they not already use them?

Yes, to both.

But there is a cap on the amount that can be issued. In other words they have to get in under a tent with all the other worthy purpose bonds that are allowed by municipalities for government use. It is time we send a very clear signal that along with the mandates to the city government officials and the people who live in cities and towns we would be saying: We do not have enough money to pay for the mandated cost for you through grants, but at least we want even the smallest, poor community that needs to issue some water bonds, and needs to attract private investors, we want to tell them you have a high priority as far as the Congress is concerned. We want you to get the cheapest possible financing that is available for any governmental use. We want you to provide clean water supply systems and sanitary sewer systems.

Mr. President, I submit that there are a lot of people in this body who take a lot of credit for passing environmental laws for our country, almost all of which impose some new burden on someone. I cannot fix all that. Part of it we do not necessarily want to pay for. We want a change in the way we do business in the country.

But we surely ought to tell the cities and the small, little communities in the States, when you finance this environmental infrastructure, that mandate that you provide, as a matter of Federal tax policy we ought to allow these cities access to capital at the lowest rate—a rate only available with tax exempt bonds.

I do not know why any Senator would oppose this. I cannot understand why any Senator would oppose the amendment unless it is because of the offset that the Senator from New Mexico has used here.

In the event somebody wants to discuss the offset, I am more than willing. I will take as much time on the merits of this offset as a tradeoff for environmental quality and public health. I will take as much time to explain why we can reduce the market-to-market transition period for broker dealers from 10 years to 7. If any Senator wants to discuss that in detail I will be glad to do that. I believe this is a fair and equitable offset and it covers this $562 million cost over the next 5 years, and has a little bit of money to spare.

So I hope we adopt this and then I have a small amendment that will use up most of that which is left over from this reduction from 10 years transition to 7.

The amendment I send to the desk is a step in the right direction in our effort to help communities with deteriorating water and sewer systems and other environmental infrastructure.

This amendment is based on a bill Senators BOREN and SYMMS and I have been working to enact for several years. Since this bill was first introduced our environmental infrastructure needs have become more acute.

It would benefit four basic types of public works, each related to improving the American environment: water supples, sewage treatment, solid waste disposal, and hazardous waste disposal.

The amendment encourages the construction of these facilities through the bond market because I don't see how we can meet future needs without greater reliance on the bond market and private investors.

The amendment makes these public works improvements less costly as investment, both to local government and the private sector, by ensuring that these investment receive fair and favorable treatment in the Tax Code.

To help build our future, the amendment creates a new category of tax-exempt bond, an infrastructure bond. An infrastructure bond would be an obligation, issued by a State or local government, that is used to finance any of the four types of public facilities I referred to earlier.

These public infrastructure bonds would be freed from constraints im-

posed on tax-exempt bonds in recent tax laws.

These bonds would not be subject to a volume cap. These bonds would not be subject to the alternative minimum tax. These bonds could be refunded at any time.

The bill, S. 90 is based directly upon the recommendations of two important studies of America's infrastructure.

The initial study came from a distinguished panel of public officials and private citizens, the Private Advisory Panel on Infrastructure Financing. That panel was established several years ago to advise the Senate Budget Committee on techniques the Congress might sue to increase public investments in roads, dams, airports, bridges, water systems, and waste disposal.

The second report—"Fragile Foundations: A Report on America's Public Works"—was released 3 years ago by an equally distinguished group, the National Council on Public Works Improvement.

Both reports concluded that America faces a great challenge in reviving our decaying public works investment. Both reports deserve the Senate's careful attention.

Since then, the Congressional Budget Office's study, "New Directions for the Nation's public Works," suggested greater non-Federal responsibility in targeting infrastructure investments.

To attract private investment, water supply systems, sewage systems, solid and hazardous waste must hold a promise of profitability. Public-private partnerships in the future will take on new importance as we seek capital to meet public needs.

This amendment helps forge those partnerships.

The Environmental Financial Advisory Board is an independent advisory committee to the Administrator of the U.S. Environmental Protection Agency. They issued a report in May 1992, entitled "A Progress Report of the Environmental Financial Advisory Board" and they recognized the need for infrastructure bonds.

The costs of maintaining a clean environment are rising rapidly. Several financial and programmatic barriers to successful financing raise costs even higher. Examples include:

The 1986 Tax Reform Act—that corrected abuses but also raised financing costs for public-purpose environmental facilities.

A lack of sufficient credit history in small communities—which prevents them from obtaining capital at reasonable costs.

There is a growing gap between the costs of environmental protection and our Nation's ability to meet those costs and the critical need to make environmental financing issues a priority for EPA and Congress in the 1990's.

Viewed from the perspective of the U.S. economy as a whole, total public and private environmental expenditures, as a percentage of gross national product grew from 0.9 percent in 1972 to 2.1 percent in 1990. By the year 2000, environmental expenditures are expected to consumer roughly 2.6 to 2.8 percent of GNP.

At the local level, cost escalation is even more dramatic. In the year 2000, local governments will have to spend an extra $12.8 billion per year, or 65 percent more than they did in 1988 just to maintain current levels of environmental quality.

Communities will have to spend at least another $3.6 billion per year to comply with new regulations. Communities may need to spend 83 percent more per year by the year 2000.

The nation's smallest communities will be hit especially hard. For communities of less than 500, the annual cost per household of environmental protection will double, from 2.5 percent of household income in 1987 to 5.6 percent by the year 2000. At the same time, federal environmental aid to local governments is declining leaving communities an increased share of a growing financing burden.

Historically, the national debate on environmental infrastructure has paid relatively little attention to financing issues.

This amendment is an opportunity to address that historical void.

Small communities cannot afford or lack access to the financial markets. The fixed costs of bond issues are higher as bond issues are smaller; the user base may be too small to allow full-cost pricing and a low credit rating discriminates against small communities in the debt markets.

This amendment doesn't address all these problems but it does help lower the cost of bond issues and would attract new investors to provide funding for environmental infrastructure bonds.

Without this amendment needed water, sewer, and wastewater systems may never get off the drawing board. Economically disadvantaged households may find they are unable to pay for water, sewer, and solid waste management, and hence face an increasing risk to public health.

Rate shock:

Between 1986 and 1991, water and sewer rates in New York City more than doubled, although water consumption rose only 6.5 percent and inflation grew only 28.5 percent.

In the Boston area, average household water and sewer rates are expected to rise from about $500 per year in 1992 to more than $1,600 per year by 2000.

In absence of public investment in adequate environmental facilities, growth in the private economy is constrained. Public investments, such as enlargements of wastewater treatment plants, allow private factories to operate at higher capacity with no net new investment in capital plant. This, in turn, increases productivity of private capital in the short run and stimulates new private investment in the long run.

The 1986 Tax Reform Act, while promoting greater tax equity and ending abuses within the tax system had the unintended effect of increasing the cost of financing public-purpose environmental facilities. The act:

Required State and localities to offer higher tax-exempt interest rates on some types of bonds;

Narrowed the market for tax-exempt bonds by eliminating certain types of large-volume institutional buyers; and

Made tax-exempt bonds a less attractive investment for AMT taxpayers by making the interest on such bonds an add-back, preference item in calculating the AMT.

Limited the volume of private-activity, tax-exempt bonds that States can issue each year which resulted in delayed financing for environmental projects or forced States and localities to issue public-purpose bonds as taxable bonds, accompanied by higher rates.

The amendment addresses three of the four concerns. The amendment does not address the institutional buyers.

Creating a new classification of bonds, infrastructure bonds would: save State and local governments billions in financing costs; increase investment as it would increase the volume of environmental bonds issued; and yield a net gain in Federal revenues by the year 2000—losses would be offset by private sector productivity and profitability gains resulting from increase investment in environmental infrastructure.

In the final decade of this century, the nation faces serious financial constraints that may prevent attainment of national environmental goals. At risk are the health of ecosystems, human health, and community well-being—in short, the quality of life in America."

These extracts are from: "A Progress Report of the Environmental Financial Advisory Board," May 1992.

I close by saying we are dire need of infrastructure in America. We are urging that our municipalities, large and small, build more. Now we are going to have new landfills that are going to be built because of our landfill law.

We ought to send a very simple signal. We want the lowest financing available and we do not want you to be burdened by being in competition with other kinds of tax-free bonds for municipalities. We want to make sure you get that for all infrastructure related to the environment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, it is with some difficulty I rise to oppose my colleague from New Mexico, because there is some merit to the point that he makes. But once you open the door with respect to industrial revenue bonds for the infrastructure, then it is: Watch out, Charlie, it is all the way down the road for all sorts of projects that are very important, very significant. But I remember standing out here at night on the floor of the U.S. Senate some years ago, battling whether or not you could use industrial revenue bonds for law offices; battling whether you could use them for other special kinds of purposes. Fi-

nally the Congress decided to put a limit on industrial revenue bonds because the more industrial revenue bonds you have, the less amount of tax dollars you have for this country. The fact is, it provides a cheaper way of doing financing because the money is tax exempt. But we just cannot afford it. This country cannot afford it. You cannot afford to do all the things you might like to do.

We might like to do more things for mental health, which the Senator from New Mexico is a leader in; we would like to do more things for schools; we would like to do more things as far as health care is concerned. We would like to do so much more than we are doing at the present time but there is a reality about the world in which we live and the country in which we live. And that is, if you start providing tax exemptions, which this would do, you are coming down that road, down the pike to the point where you just do not have any revenue for the Government.

So we tightened up the restrictions with respect to industrial revenue bonds. There are many other situations in which you could make a very good argument for the use of industrial revenue bonds, for colleges, for universities, even for local school districts. The fact is, local school districts would not need them but colleges certainly could use them.

I believe once we start down this road, there is no way to stop going down that road and therefore, Mr. President, at an appropriate time, when the debate has been concluded, the Senator from Ohio—unless the Senator, the manager of the bill desires to do so—will move to lay the amendment on the table.

It is a worthwhile amendment. It is good. It is a step in the right direction. But you just cannot go back to the days when we were using industrial revenue bonds. We placed the limit as to how much each community could do. This would break through that limit because that is the reality that there just is not that much money around.

I will just say to my friend from New Mexico, I believe that a Saturday afternoon at 12:40 is not the time for this matter to come before the Senate. I think it is a matter that should have been taken up, or should be taken up next year in the Finance Committee. Let them deal with all the ramifications, the pluses and the minuses.

It is not a bad amendment he is proposing. I am concerned that once you open the dam there is no limit as to how far the water will flow and how much of it will flow.

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

Mr. METZENBAUM. Of course.

Mr. DOMENICI. Mr. President, is the Senator aware this will not be an industrial revenue bond? By definition it will not be. It is going to be a governmental bond. The finance infrastructure authorities support it and sent a letter to the chairman, and they make that point very clear. This is local government in conjunction with private owners doing the essence of what we mandated them to do. All we are saying is when it has to do with the environment, communities are going to get the lowest interest rate around.

Now, they are not going to get that today. Some might but they are not going to get it as a guarantee because you have all the other things under the umbrella of industrial revenue bonds. This would be saying to Government, this has a very high preference.

That was a question. Did the Senator know that, that it was not going to be industrial revenue bonds.

Mr. METZENBAUM. Mr. President, I am aware of the fact it is not an industrial revenue bond. But what I am suggesting is the limits and constraints that were put on some years ago with respect to the amount of bonds that could be issued of this kind were there because we worked out a resolution of our differences, and now we are coming back to do it over again.

Will the Senator in New Mexico be good enough to indicate the fact that you need this amendment because at the present time there is a limit and, therefore, the community cannot issue these bonds without making them tax exempt, without changing the Revenue Code?

Mr. DOMENICI. Let me say, at this point in time those who are suffering most from the cap as it applies to activities such as this are the poor communities in the country, the lower rated ones with reference to their credit. But eventually, there will be many communities crowded out. We are seeing projects cancelled and delayed and the quality of life in those communities suffers as a result of this arbitrary cap.

Having said that, I also want to suggest to my friend who reads the amendments that come across very carefully, and I am sure he read this one, I found a way to pay for this. If the Senator is worried about loopholes, let me suggest that to stand here and to table this amendment because we cannot afford it is to acknowledge that you need a 10-year transition rule for the broker dealers in the United States to go with their portfolios from where they are now to marking to the market which they should have been doing since 1973. We can afford it. That is how we pay for it.

Mr. BENTSEN. Will the Senator yield? I share the concerns of my friend from Ohio, and I told my friend from New Mexico. It is no fun opposing him, but this is a very significant and major amendment. We have had no hearings on it in the full Finance Committee. I welcome it coming before the committee for that purpose when we start the new year.

I know of his deep concern on this and I understand his objectives. His objectives are good ones, especially with regard to the pressures on some of the smaller communities to meet the environmental edicts of the Federal Government. But I hope very much that the Senator, at this late date in this session, will not press his amendment and will appear before us next year to see what we can do about settling it.

Mr. DOMENICI. Mr. President, I know the chairman is serious about that, but I will tell the chairman, we did have a hearing in the Finance Committee. We had that on June 11, 1991, on this bill. I testified along with others. It might have been assigned to Senator BOREN who was conducting some hearings at this point, but it was a Finance Committee hearing. I also went to the House and testified at a hearing there.

Mr. BENTSEN. I assume that must have been a subcommittee.

Mr. DOMENICI. It must have been a subcommittee. I do not know how the Senator arranges his committee, but I did not notice it was a subcommittee. I was invited to the Finance Committee.

I suggest that it would be just as easy, Mr. President, since we are on the floor and we have now found a way to pay for this, that the Senator and the committee could take this amendment and in due course, as they move through trying to put a bill together—we might not even get one by the time we are through—I think this might just be a good thing to have in your inventory as you go through deciding what you want to keep and do not want to keep. I urge that we accept it in that spirit today and, thus, we will not have to have a rollcall vote.

The PRESIDING OFFICER. Is there further debate? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am not prepared to accept it, nor do I think it makes good legislative policy to just pass the amendments so the managers of the bill will have something in their packet they will be able to deal away. I just think it is a bad precedent. I think it starts down a road that is dangerous.

It may be the right road to go and I am not prepared to say if the Finance Committee came forward with this same amendment 3 months or 4 months from now the Senator from Ohio would stand here and oppose it. But I believe that at this point to open the dam and to start down this road after we had gone way out of our way to construct a process and a procedure and limitations with respect to this kind of bond, I think now to start with an exception on a Saturday afternoon without any prior discussion or notice, with about 25 percent of the Members of the Senate having already left, I think it is too significant an amendment to accept. If

forced to, unless the manager of the bill moves to lay it on the table, I will be inclined to do so.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I must say, I think most people would be astonished to find out there is a cap on this type of bond. It seems to me it is like a municipal bond. There is nothing associated with industrial revenue or anything like this. It is a municipal bond. You issue municipal bonds to build the local fire station, or you issue municipal bonds to build the schools, you issue municipal bonds to build a police station. This is just issuing municipal bonds to build a local sewage plant or make the renovations on it, if necessary.

For some reason, these are treated differently. There is a cap on them under the law as we currently have it. It is an artificial cap in many ways. It has nothing to do with industrial revenue bonds.

The Senator from Ohio started talking about, we put a cap on that because we did not want industrial revenue bonds to be used to build a Dairy Delight or a McDonald's or law offices. They are very restricted because we wanted to have what truly was industrial development. But these are just complying with mandates that are issued. But, true, it seems to me they are just similar to municipal improvements, the local water works. I am really surprised that there is a cap on them anyway. I think the Senator has a good amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to make two points and then obviously we will proceed as per the chairman's desire.

First, Senator CHAFEE is absolutely right. One of the true decent, wise things the National Government has done regarding bonds is to help the cities of America and the States of America build their governmental building infrastructure. One of the reasons we have city halls and courthouses and the kinds of things that we have for our cities is because they have been privileged to issue tax-free governmental bonds.

They have to go through a lot of routine before they issue them. They do not just issue them. People vote, commissions decide, but that is where they have been able to do it because they got a good bargain on interest rates and we gave it to them. Frankly, this is the day of the environment when the costs are for the environment, and why we should have a cap, as the good Senator from Rhode Island said, is beyond me.

And besides, the offset for this is a very fair and equitable one that I am willing to debate with anyone around here. If they want to get this out in the light of day, we will get it out of here on the 10-year transition rule.

Mr. CHAFEE. Mr. President, let me ask the Senator a question. Is there not a cap on the issuance of these bonds because if the municipality is overburdened with bonds, the bond market will not accept them? And, indeed, the interest rate will be so high that the municipality will not choose to issue them.

Mr. DOMENICI. Sure.

Mr. CHAFEE. So any municipality that issues bonds has a cap imposed on it based on its financial power to repay the bond. So, in effect, there is a cap.

Mr. DOMENICI. Absolutely.

Mr. President, in response to Senator METZENBAUM, when he says we do not want to go down this path because we did all these things in the 1986 Tax Reform Act and we do not want to break any precedent and change anything, I greatly respect my friend from Ohio, but that argument would have been good 1 year after the 1986 law was passed. Every year thereafter we have changed that code. In fact we make significant changes to the bond sections in this very bill. We have changed it so many times that for anyone to sit around here and say we want to keep the purity of purpose and goals of the 1986 tax law has to be kidding. The IRA's, that is a monstrous one. That is a nice tax change. That is one we would have called a tax expenditure. We were not going to have any more of those, were we. I do not say I agree with the principle, but that is the idea.

But now we are going to have some people hold stocks of the United States in inventory portfolio year after year and do not pay the right tax on it. This amendment is generous to them too. They will get 7 years worth of transition in exchange for new sources of funds for environmental infrastructure. The municipalities get out from under the cap so they can provide environmental control facilities.

Whoever wants to vote in favor of tabling it ought to know that is what they are voting for. They are voting against a commitment of our Government to clean up the environment by helping local communities with the lowest financing possible and in favor of a 10-year rule, transition rule, for people who hold huge amounts of stock annually instead of a 7-year rule; 10 years is a long time in transition, 7 ought to be enough. And that is how we pay for it.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I know hogwash when I hear it. I have just heard hogwash. The issue is not about whether or not they have a 10-year writeoff or 7-year writeoff for the portfolios of the investment banking firms. As far as this Senator is concerned, you can make it whatever you want. That is not my concern.

As far as the question of the environment is concerned, I want to say to my colleagues from New Mexico, I am willing to compare my record in the Senate with respect to fighting to protect the environment with his any day of the week because I think I have a 100-percent record. But that is not the issue before us.

The issue before us has to do with whether or not we are not going to go back and open the door to the municipalities to start issuing more industrial revenue bonds. They were doing that. They were doing it for law offices, they were doing it for bowling alleys, shopping centers. Anyplace you wanted to go, you could get an industrial revenue bond and be able to buy money at a cheaper rate as a consequence.

Now what we have here, as I understand it, is the private developers who want sewage facilities, solid waste disposal facilities, hazardous waste facilities, facilities for the furnishing of water coming to the cities and asking them to issue industrial revenue bonds which would be backed up by the commitment of private corporations.

I am not going to say that is the world's worst idea because it is not. As a matter of fact, we went down that road. We did that time and time and time again. But what I am saying is that on a Saturday afternoon, without any hearings, apparently now we indicate that the matter has been before the Finance Committee and, obviously, it did not move there.

I do not know whether it should move or it should not move. But I know this, I know it should not move here on the floor of the Senate Saturday afternoon with about 25 percent or more of the Members of the Senate not being here, with it not having gone through the Finance Committee, with it having a financial impact and then plan some mumbo-jumbo with respect to whether or not the security firms get 10 years or 7 years to write off their portfolios with respect to marking them to market.

I believe this amendment does not belong here this afternoon. I hope that the Senator from New Mexico would see fit to withdraw it and that he would get an assurance from the chairman of the Finance Committee that there could be hearings on this subject at some future date.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, all government-owned and operated water, sewer, waste disposal systems are already treated as governmental bonds under the current law. Only those facilities that are owned or operated by private companies will benefit from this proposal.

What we are talking about ultimately is a Federal subsidy of almost

$2 billion over the next 5 years for these private companies. Of course, it is true that some of that $2 billion is going to go back to them benefit of the cities and towns using the facilities. I understand that. But there is no guarantee of how much.

So keep in mind the States can provide tax-exempt bonds for these privately owned or operated projects now if they think it is important enough to allocate some of that cap to it. But if a State or local government is not willing to do that, to commit volume cap to a project, then one can seriously question the value of that project to the community.

The Senator is quite right. He appeared before the subcommittee. I have looked that up. And I also found that the administration strongly opposed this proposal when it was being considered.

The bottom line is this is a very expensive proposal that is coming quite late in this session.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM addressed the Chair.

Mr. DOMENICI. Is it the Senator's pleasure to table it?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion table the amendment (No. 3205) was agreed to.

AMENDMENT NO. 3206

(Purpose: To amend the Internal Revenue Code of 1986 to exclude from income amounts received as scholarships which are used to pay for room, board, or travel)

Mr LOTT. I sent an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3206.

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:

On page 1811, after line 9, insert:

**SEC. 8217. QUALIFIED SCHOLARSHIPS.**

(a) IN GENERAL.—Section 117(b)(2)(B) (defining qualified tuition and related expenses) is amended by striking "fees" and inserting "room, board, travel, fees".

(b) EFFECTIVE DATE.—The amendment made by this section applies to amounts received after December 31, 1992.

Notwithstanding any other provision of this Act;

(a) IN GENERAL.—Paragraph (6) of section 162(1) (relating to special rules for health insurance costs of self-employed individuals), as amended by section 2143(a), is amended by striking the date and inserting May 15, 1994.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 as amended by section 2143(e) is amended—

(1) by striking "in 1993" and inserting "in 1994", and

(2) by striking "October 1, 1993" each place it appears and inserting May 15, 1994.

Mr. LOTT. Mr. President, I have distributed copies of this amendment to the distinguished chairman of the committee, and to the ranking Republican. I have also talked to the Senator from Ohio, Senator METZENBAUM, about it.

I had hoped not to have to offer this amendment because it is a relatively small amendment. I know there is a lot of sympathy for it. The problem all along has been of course the offset, but we have an offset.

The reason why I am pursuing this particular amendment is because I feel so strongly about the unfairness of taxing student scholarships. Perhaps since it involves scholarships for students, my passion for it is affected by the fact that for 2 years I worked in the financial aid office at a university and I know how hard these scholarships are to fund and how hard they are to obtain. This bill taxes scholarships. That is pretty incredible.

I do ask unanimous consent, Mr. President, that Senator KENNEDY from Massachusetts be added as a cosponsor.

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

Mr. LOTT. Mr. President, I know we all in this Chamber probably heard the joke of the great Senate tax debate a few years ago. It was one of the typical extended tax debates for hours, or for days. Proponents and opponents were talking about the policy involved and the impact on the economy and what was the history of this particular tax proposal. One of the opponents of a particular amendment stood up and said well, let me tax your memory on this particular amendment. And the other Senator jumped up and said, well, that is a great idea, tax memory. That is how ridiculous our Tax Code has become.

The things that we tax in our Tax Code have gotten completely out of control. When I learned recently, through a column, that we were taxing students on their scholarships, I was totally floored.

Now, in 1986, the Tax Reform Act contained, in my opinion, many bad provisions. We have gone back and corrected a number of them.

But one of the most egregious was this provision that would tax recipients of scholarships for the funds used for covering their living expenses, room and board, and necessary travel. Although students are not required to pay taxes on the funds used for tuition, fees, books, and supplies, they are taxed on funds used in these three crucial areas. At the time when we are supposed to be encouraging academic excellence, encouraging students to excel, to do well, we learn that we are about to start really taxing scholarship benefits.

I might say as far as the revenue loss, I do not think there is going to be much because the IRS has not been actually collecting these taxes because the academic institutions do not have any reporting procedures. So they were not getting any revenue.

Recently we discovered that the IRS is really going to get serious about taxing these scholarships. Not all scholarships are just for good grades. Some universities and colleges give scholarships once they are admitted based on need. So here now we are going to be taxing scholarships not only for the academically excellent but for those that get scholarships based on need. In 1986, it was assumed that most students' living expenses would not put them in a taxable income range unless they had significant other income. Now, however, we have learned that college costs are continuing to spiral upward. The cost of student rooms, board, travel to and from school, in 1992 could easily exceed $5,900. Or if the student's parents claimed their child as a dependent the student must only earn $3,600 to be in a taxable situation. For the lower income student from Mississippi, this tax might amount to not much at all, but when you are already in a desperate situation, and you have done well academically, you get a scholarship, and you are going to be taxed.

Mr. SIMON. I want to commend my colleague from Mississippi. He is absolutely right on this.

I am pleased to join him in this, as a cosponsor, and I ask unanimous consent to be listed.

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

Mr. LOTT. I thank the Senator from Illinois for his interest and for cosponsoring this amendment.

This is just unconscionable, Mr. President. The IRS is not enforcing the tax. It is collected basically on an honor system. It is not working.

But now the IRS has fired a shot across the bow. They went to a particular institution this year, and went through the information on the school's scholarship recipients, and now they are indicating that they will really start taxing benefits. The Miami Herald, for instance, recently said checks could occur at other universities based on the trolling that was done at Harvard, if the national tax collectors decide it is worth their while.

We learned in 1990 that changing the Tax Code changes behavior. I think that will happen if we start seeing this tax enforced.

This amendment has been endorsed by the American Council on Education, the National Association of Graduate Professional Students, and the Association of American Universities.

I do not want to prolong this. I know the hour. But I also think that this is important enough that we should find a way. If it is seen by the managers of the bill that there is a problem with the offset in the conference, certainly they can work on that.

It is the principle, Mr. President. This is wrong.

I urge my colleagues to look at this amendment and join me in supporting it.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Yes, there is further debate. We have to take a look at the amendment. I cannot find it here.

Mr. LOTT. I gave the chairman the amendment yesterday, and an analysis of the amendment I gave them. I know he needs a minute to look at it. He is getting so many. I have made an effort over the last 2 days to make sure everybody understood.

Mr. BENTSEN. In the last few hours the filing system has gone to pot. Let us take a look at it. Are you still paying for it by the reduction of the health insurance?

Mr. LOTT. Yes. If I might respond to the distinguished Senator from Texas——

Mr. BENTSEN. Is that still a source of payment?

Mr. LOTT. The offset would be a 1-month reduction from the 17½ months that was added I believe in an amendment yesterday.

Mr. BENTSEN. Let me say, Mr. President, that I am certainly sympathetic to what he is trying to do, to what the Senator's objective is. I think he makes a very good argument for equity.

But I run into real problems with the way it is being paid for. This amendment is paid for by cutting back on the deduction for the health insurance premiums of the self-employed.

One of the real breakthroughs in this piece of legislation was to get the self-employed to have the same deductibility, 100 percent deductibility, of his health insurance costs just as a corporate chief executive does—to not force the self-employed into the corporate structure. Yet, in this situation he has started down that path of cutting back what we have been able to do, cutting it back for 1 month.

If we do that this time, 1 month on this one, I do not know what other amendment is going to be offered to try to cut back another month. I really have to oppose it because of that.

I think the self-employed businessman deserves to get the same treatment whether or not that business is incorporated.

I remind my colleagues that this objective is the No. 1 priority of the NFIB, of the small business organization, the 100 percent health deduction for the self-employed.

So I would have to oppose the amendment. I do not want to do that to the small businessmen of America.

Mr. LOTT. Mr. President, if I could respond to that. First, we all understand that the revenue-neutral provisions make it very tough to come up with offsets as we all have to struggle with that. The chairman has to struggle with that.

I have been working on it for days now and I found a few days ago that there was $856 million I believe that had not been used that was available. I wanted to use that as an offset. I would prefer to use spending cuts as an offset; maybe even reductions in IRS funding. But you cannot do that without a point of order.

I repeat once again, I think that this is a totally bogus figure. We are not getting any revenue now out of it.

Now the IRS is saying we are really going to start working on it. We are talking about $136 million if we got everything that is projected, which is just not accurate at all.

I have looked every place I could possibly find to get an offset. I want to emphasize, this does not affect the deduction for health insurance for the self-employed percentagewise at all. It would still be 100 percent deduction for the health insurance for the self-employed, extended yesterday from 9 months to 17½ months in H.R. 11. Why 17½ months? The only thing I could figure is that is how much money was available probably, and I am not being critical. If there is, you want to make full use of it.

I might point out that other expiring tax credits are only extended for 15 months, and section 29 credit was only extended for 8 months. So what I would do is cut back 1 month. I would like for it to be 2 weeks. I would like for it to be none. But we have to come up with an offsetting amount of revenues to cover this very important amendment. One month is involved here.

I say to the distinguished chairman, who certainly does ingenious work in these bills, he agrees in principle I think with the amendment; with what I am trying to accomplish. If this is not the right offset, I am sure that this bill is going to be reworked and overhauled and hammered in many different ways when it gets into conference. I think we are never going to get a bill.

I have a lot of faith in the chairman and the distinguished Republican leader. They can work miracles when they get in these conferences. You can perform a miracle.

This is not even a big miracle. This would be a slight of hand, a little bitty slight of hand. If this is not the right offset, fix it in conference.

But if we do not get this amendment the IRS is going to be probing around on the University of Kansas, the University of Mississippi, Texas A&M, the University of Texas, the University of Florida, and taxing scholarships.

That is unheard of. We encourage students. We are trying to improve education. We encourage them to be better academically. We want them to be rocket scientists. And then we are going to start taxing the benefits they get from a scholarship? Where in the world did that come from? Accept the principle, Mr. President, and find a way to fix this little old bitty amount of revenue that is in this bill.

I am sorry to take up time on something like that, but the principle of taxing student scholarships when we are around here talking about elementary, secondary education, higher education, loans and grants, heaven forbid. You will not think about taxing grants, and yet many scholarships are in fact grants to students that need it, or economic aid, not academic reward.

Let us fix this problem, and we can do it very easily right now. I will not prolong my time. I know the distinguished chairman from Texas is worried about the University of Texas, and Texas A&M, and Texas Tech, and would want us to do this. So I hope that we will find a way to accept it or do it on a voice vote and let the distinguished leaders do the job. I know they can do it in conference. I can see it right now that they are going to handle this problem.

Mr. BENTSEN. Mr. President, I say to the Senator from Mississippi, let me see if there is any problem on this side.

Mr. METZENBAUM. As I understand it, this is the college tuition amendment, and I have no objection.

Mr. BENTSEN. There is no question about the merits of what the Senator is trying to do. My concern is the reduction in amount for the HI self-employed. Let me say that I am going to go ahead and accept this on this side, but I give full notice to anybody else that tries to reduce that HI that they are going to have my total opposition, and I will move to table whatever it is.

Mr. LOTT. I thank the chairman.

Mr. DOLE. Mr. President, I will also support the chairman in almost any effort to bring this bill to a conclusion.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3206) was agreed to.

Mr. BENTSEN. 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. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 3207

Mr. SIMON. Mr. President, I send an amendment to the desk on behalf of myself and Mr. HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. HATCH, proposes an amendment numbered 3207.

Mr. SIMON. 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 1699 after line 13, insert the following:

(c) MOST EFFECTIVE PROVIDERS TO HAVE ACCESS TO JOBS PROGRAM FUNDS.—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each state shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this Title. States that have already provided such an assurance to the Secretary of Education shall not be required to provide an additional assurance under this Act. In determining which programs shall receive assistance under this Title, the State shall consider (i) the effectiveness of applicants in providing services (especially with respect to recruitment and retention of disadvantaged adults and the learning gains demonstrated by such adults and the ability to serve eligible individuals in a cost effective manner); (ii) the degree to which the applicant will coordinate and utilize other and social services available in the community; and, (iii) the commitment of the applicant to serve individuals in the community that are most in need of services."

Mr. SIMON. Mr. President, for the basic skills program and the jobs program, we have appropriated a billion dollars. We spent about $600 million. Most States are doing a very fine job, but a few States are not. What this amendment does is says States that already provide assurance that they are doing the job that needs to be done, that is fine. But States that have not provided that assurance, we want to know that they are doing this in a cost effective way, that they are utilizing the social services available in a community, and that they have demonstrated a commitment to serve those most in need.

This does not require any additional hearings. It does not require additional paperwork. We have the same provision in the literacy act the President signed. I think it should be acceptable.

Let me give credit to Senator HATCH and his staff for some modifications that improved it. I hope it can be accepted.

Mr. DOLE. Mr. President, I am advised that Senator HATCH is a cosponsor of the amendment, and we have no objection on this side.

Mr. CHAFEE. Mr. President, perhaps we can put this aside and go to the next amendment.

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

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

Mr. BENTSEN. Mr. President, I ask unanimous consent that we lay aside the Simon-Hatch amendment to consider another one at this time.

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

AMENDMENT NOS. 3208 AND 3209, EN BLOC

Mr. MACK. 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 Florida [Mr. MACK] proposes amendments, en bloc, numbered 3208 and 3209.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 3208

(Purpose: To allow disaster victims to qualify for first-time homebuyer tax breaks)

On page 889, line 12, insert: "An individual whose principal residence was destroyed or substantially damaged by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar shall be treated as a first-time homebuyer with respect to such residence if the individual rebuilds it or with respect to any other principal residence acquired to replace such residence."

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AMENDMENT NO. 3209

(Purpose: Delay in inclusion of income of crop proceeds of disaster victims)

At the end of title VIII of the Committee amendment, insert:

**SEC. . SPECIAL RULE FOR INCLUSION OF CROP PROCEEDS OF DISASTER VICTIMS.**

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULE FOR CROP PROCEEDS OF CERTAIN DISASTER VICTIMS.—

"(1) IN GENERAL.—If, for the taxpayer's taxable year which includes the designation date described in paragraph (2), the taxpayer has income derived from the sale of crops grown in a qualified disaster area, the taxpayer may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs.

"(2) QUALIFIED DISASTER AREA.—For purposes of paragraph (1), the term 'qualified disaster area' means an area designated by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar.

"(3) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).".

(b) SPECIAL RULES FOR SELF-EMPLOYMENT TAX.—If, for any taxable year, a taxpayer includes in gross income any amounts which, but for section 451(h) of the Internal Revenue Code of 1986 (as added by subsection (a)), would have been included in gross income for the preceding taxable year, then the applicable contribution base for purposes of section 1402(b) for the taxable year of inclusion shall be increased by the lesser of—

(1) the applicable contribution base for the preceding taxable year, reduced by the self-employment income of the taxpayer for the preceding taxable year, or

(2) the amounts so included in gross income for the taxable year of inclusion.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

Mr. MACK. Mr. President, these two amendments have been discussed on both sides of the aisle, both having specifically to do with additional provisions to address concerns as a result of the disasters of both the hurricanes and typhoon over these last several weeks.

One of them expands the definition of "first-time home buyer," so that the use of IRA funds would be eligible for reconstructive purposes in those disaster areas.

The second has to do with agriculture. A Farmer who receives income prior to a disaster and is unable to replant in the same taxable year would be subject to an excessive tax liability. We want to delay that Farmers tax liability until the following year to allow him extra capital to reinvest in getting the crops back into the ground and getting started again.

Mr. BENTSEN. He plants that crop to try to survive. Of course, I understand that. I share that concern.

I have looked at both of those amendments. I think they have merit. I have no objection. Let me see if I have concern on this side as to the specifics.

Mr. CHAFEE. Mr. President, there is no objection on this side.

Mr. METZENBAUM. Is the floor now open to amendments?

Mr. BENTSEN. No; we have two amendments before us. They are being considered en bloc. One of them deals with the accounting problem on the loss of crops.

Mr. METZENBAUM. I am familiar with these two amendments. The Senator from Ohio has no problem with them.

Mr. BENTSEN. We see objection on this side and support the amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Florida.

The amendments (No. 3208 and No. 3209), en bloc, were agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3210

(Purpose: To protect Federal savings associations)

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

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 3210.

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

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

The amendment is as follows:

At the appropriate place in the Committee amendment, insert the following:

**SEC. . PROHIBITION AGAINST TRANSFERS OF TAX BENEFITS AND LIABILITIES BETWEEN SAVINGS AND LOAN HOLDING COMPANIES AND SAVINGS ASSOCIATIONS.**

(a) IN GENERAL.—Section 11(a) of the Homeowners Loan Act (12 U.S.C. 1468(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following paragraph:

"(4) CERTAIN TRANSFERS AND ALLOCATIONS.—

"(A) LOSSES OF SAVINGS ASSOCIATION.—A savings association that incurs a taxable loss shall be reimbursed in cash by the holding company to the extent that there is a tax benefit arising from the loss in the consolidated return, as determined in a manner consistent with the allocation of taxes to profitable subsidiaries. The reimbursement shall be based on the amount the savings association would have received had it filed its income tax return on a separate return basis and shall be made no later than the approximate time that the savings association would have received a refund of tax if it had filed a separate return (or, if earlier, at the time the refund is received by the holding company).

"(B) PAYMENT OF TAXES.—A savings association having taxable income which files a consolidated tax return with a holding company shall not transfer to the holding company for payment of taxes an amount in excess of the amount of tax the savings association would have paid had its tax return been filed on a separate return basis. Any such payment shall not be made before the approximate time that such payment is required to be made to the Internal Revenue Service. In no event shall a savings association make any payment to a holding company for a deferred tax liability.

"(C) AGREEMENTS.—Any tax allocation agreement between a holding company and savings association shall be consistent with the provisions of this paragraph."

(b) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Office of Thrift Supervision shall take such actions as are necessary to implement the amendments made by subsection (a).

(c) APPLICABILITY.—

(1) IN GENERAL.—The amendment made by subsection (a) applies to payments and refunds of Federal taxes for taxable years ending after September 30, 1990.

(2) CONSTRUCTION.—The enactment of this section shall not be construed as indicating that the Office of Thrift Supervision had no discretionary authority prior to such date to effect the same policy by rule, regulation, enforcement action, or otherwise.

Mr. METZENBAUM. Mr. President, I propose an amendment which is at the desk. Before I speak to the amendment, let me explain the circumstances that have led me to offer it. They involve a flagrant abuse of the savings and loan bailout perpetrated by the RTC and the Office of Thrift Supervision or OTS.

While the Presidential candidates argue about how the deficit limits the Nation's ability to confront our economic problems, the RTC and OTS are literally throwing away hundreds of millions of dollars. And to make matters worse, they are throwing them to a billionaire.

I am talking about how the OTS and RTC mishandled the Government's arrangement with First Gibraltar Bank of Texas.

Wednesday's Washington Post reported that Mr. Ronald Perelman just sold First Gibraltar Bank and two other thrifts for a profit of between $800 million to $1 billion. First Gibraltar, by far the largest of the three thrifts, easily brought $600 million of that amount.

Mr. President, 8 months ago the Federal Government had a 20-percent interest in First Gibraltar Bank. We also were committed to give First Gibraltar Bank nearly $4 billion over the next 7 years as part of the S&L bailout. In an effort to save the Government money, the RTC renegotiated our agreement with First Gibraltar Bank. In that renegotiation, we agreed to sell our 20-percent interest for a mere $35 million. Yesterday, Mr. Perelman resold that interest for at least $150 million.

Our Government representatives let us down, let Mr. Perelman get away with a real bonanza of over $100 million.

I think the RTC's action, in selling the taxpayers interest to Mr. Perelman in January of this year for $35 million, amounted to a secret giveaway of at least $100 million of the taxpayers' money. The people at the RTC and the OTS who allowed this to happen should be held accountable.

In Wednesday's Washington Post article, Mr. William Roelle, the executive vice-president of the RTC defends the $35 million price. Mr. Roelle said:

Based on the information we had at the time, we think we got a good deal.

The record shows that Mr. Roelle is flat wrong. The RTC knew at the time that it was not getting a good deal.

At the time the RTC knew that Mr. Perelman was withholding information the RTC needed to make the best estimate of the value of the Government's 20-percent interest. At the time, the RTC knew Mr. Perelman was able to divert profits from First Gibraltar Bank, where we held our 20-percent interest, to the other two thrifts in which the taxpayers held no interest. The effect was to reduce profits which Mr. Perelman had to share with the Government.

The RTC knew that it was not getting a good deal for another reason: RTC documents show, that the RTC knew at the time—contrary to Mr. Roelle's statement to the Washington Post—that Mr. Perelman was not paying first Gibraltar for use of its tax benefits. If Mr. Perelman had paid, the RTC's own calculations show that the taxpayer's 20-percent interest in the thrift would have been worth $100 million more.

Let me explain: In February of this year when the RTC sold its 20-percent interest back to Perelman, I was incredulous. The sum of $35 million meant that the RTC believed the thrift was worth five times $35 million or $175 million—$175 million flew in the face of logic. First Gibraltar had, at a minimum, $4 billion in tax-free guarantees and subsidies coming from the Federal Govenment—no matter what. In 3 years of existence, it had already earned $280 million in cash profits, not counting tax benefits. It just had to be worth more than $175 million.

I asked the RTC to explain how they arrived at the 20-percent interest being worth only $35 million. The RTC informed me that they had hired an investment bank, Donaldson, Lufkin & Jenrette, to come up with a value and that Donaldson, Lufkin had estimated the 20 percent of First Gibraltar to be worth $35 million.

I was not satisfied with that answer, so I obtained a copy of Donaldson, Lufkin's estimate. The first thing I learned was that the report was delivered to the RTC the same day that the deal was approved, January 22—after the negotiations were completed. The Government did not have the estimate when it negotiated with Mr. Perelman. The RTC received the estimate after the deal was done. I suspect that Donaldson's estimate was ordered more for its use as an after-the-fact defense of the RTC's $35 million figure, than as a tool to be used in the negotiations.

The Donaldson, Lufkin report says that its estimate of the Government's share was hindered by Mr. Perelman's refusal to give the RTC its business plan and forecast. Donaldson says it could use only a crude method of estimating the value of the Government's 20-percent interest.

When Mr. Perelman would not give the RTC a look at his business plan in order to renegotiate the deal, why did not the RTC just call off the negotiations? The RTC did not have to renegotiate. Why would the RTC negotiate with someone who had tied its hands behind its back? It was Perelman who desperately wanted to negotiate, and the RTC caved in. They obliged. They

did what Mr. Perelman wanted them to do.

What kind of influence does Mr. Perelman have with the administration to get this kind of deferential treatment from the RTC? This Senator does not know, but he would like to find out and tell the American people.

The Donaldson, Lufkin report says that the government's interest may very well have been reduced because Mr. Perelman had the ability to book profits that could have been earned by First Gibraltar at the two other Texas S&L's he operated. Now if this might have been true, why did not the RTC find out if it was true? And if it was true, why did not the Government sue Mr. Perelman for diverting profits that rightfully belonged to the RTC?

It is outrageous and a flagrant violation of the RTC's obligation to the taxpayers that the RTC did not check into this before giving up the taxpayers' 20-percent interest in First Gibraltar.

There is yet another reason to believe that the RTC knew it was not getting a good deal when it sold the interest to Perelman in January. Mr. Perelman had been using First Gibraltar's tax benefits, which were partly owned by the RTC, without paying for them.

Mr. Louis Wright, Associate Director of the RTC, wrote a memo in November 1991 before the RTC began negotiating with Mr. Perelman, describing how Mr. Perelman's failure to pay for the tax benefits could cost the Government $100 million if it resold its interest to Perelman.

Mr. Wright and the RTC then asked Timothy Ryan, who heads the Office of Thrift Supervision or OTS, to force Mr. Perelman to pay the thrift—and its minority owners, the U.S. taxpayer—for Perelman's use of the thrift's tax benefits. Mr. Ryan, as the Nation's chief thrift regulator, was in a position to require this. Mr. Ryan refused. The RTC—where Mr. Ryan is a member of the Board of Directors—then sold the Government's interest at a $100 million loss—without being compensated for the $100 million in tax benefits transferred to Perelman.

Mr. Ryan's OTS is the only agency that fails to require that depository institutions be compensated by their owners for the use of tax benefits. The Federal Deposit Insurance Corporation requires bank holding companies to pay their bank subsidiaries for use of the bank's tax benefits.

The Federal Reserve Board requires it as does the Comptroller of the Currency. Only Mr. Ryan and his Office of Thrift Supervision, which regulates thrifts, fails to require it.

Mr. Ryan decided to allow a billionaire to take $100 million that belonged to the taxpayers without paying for it.

Mr. Ryan has had years to act. When the Financial Institutions Reform, Recovery, and Enforcement Act, "FIRREA," was enacted in August, 1989, it required the RTC to study and report to Congress on the ways that the costs of deals such as Mr. Perelman's might be lessened. On September 18, 1990, the RTC reported the report recommended that the Government, as a part owner of thrifts such as First Gibraltar, should benefit from any use of their tax benefits by the thrift's holding company.

Taxpayers should be outraged that the RTC and the OTS have ignored their own report. The result is to force working mothers and fathers to pay taxes in order to give unnecessary millions to a billionaire. The RTC and OTS have been unwilling—but not powerless—to do something about it. The administration publicly rails about the deficit, but lets $100 million slip quietly into the hands of a billionaire.

Mr. President, the taxpayers deserve more from their Government than this. Congress must force Mr. Ryan and the RTC to protect taxpayers, not billionaires.

At this point, there is little we can do about the sale to Perelman of the Government's 20 percent interest.

However, the government has plans to resell its interest in four much smaller thrifts to the majority owners, one of whom is a billionaire. The RTC is also planning on selling its capital instruments, such as preferred stock, in more than a dozen other thrifts.

The RTC has failed miserably in representing the public's interest. The situation at the OTS is worse with regard to the First Gibraltar case. The OTS has refused to protect the taxpayers.

The taxpayers will receive fair value from the upcoming negotiations only if the Government negotiates aggressively on behalf of the taxpayers.

There is one thing that the Congress can do today to ensure this. We can require that thrift holding companies compensate thrift subsidiaries for the holding company's use of the thrift's tax benefits. This amendment would do that.

It would increase thrift income and, for those thrifts in which the RTC holds an interest, it will increase the value of the RTC's interest.

Specifically, my amendment would require any holding company filing a consolidated return which uses tax benefits generated by a thrift subsidiary, to reimburse the thrift for the use of those tax benefits. The amount of reimbursement will be the amount the thrift would have received had it filed a separate tax return.

In addition, under my amendment, a thrift included in a consolidated return would not be able to give the holding company any amount that is in excess of the amount of tax the thrift would have paid if the thrift had filed its return on a separate return basis.

Mr. President, there is a clear need for this amendment. The OTS has flatly refused to protect the public in the Perelman case. The cost of the savings and loan bailout is being increased by inaction such as that of the OTS. The capital and earnings of the thrift industry need to be increased.

My amendment alleviates these problems. That is ample reason for the amendment.

I urge the Senate to adopt it.

I am prepared to move forward at this point.

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I wonder if the distinguished Senator from Ohio would object if I might modify the amendment to except certain contracts.

Mr. METZENBAUM. This is a second-degree amendment?

Mr. DOLE. Yes.

Mr. METZENBAUM. I have no objection.

AMENDMENT NO. 3211 TO AMENDMENT NO. 3210

Mr. DOLE. 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 Kansas [Mr. DOLE] proposes an amendment numbered 3211 to amendment No. 3210.

Mr. DOLE. 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 3, line 19, at the appropriate place insert:

(2) EXCEPTION FOR CERTAIN CONTRACTS.—The amendment made by subsection (a) shall not apply to any tax benefit described in section 11(a)(4) of the Homeowners Loan Act (12 U.S.C. 1468(a)(4)), as added by subsection (a), if the allocation of such tax benefit, and any payment pursuant to subsection (a)(4)(B), are made pursuant to or are governed by an arrangement that is part of a written contract with the savings association, or its holding company, that is expressly approved in writing by the applicable supervisory authority or deposit insurer, but only if—

(A) the contract was entered into before October 1, 1990,

(B) the contract remains in effect at the time of the allocation in question, and

(C) a portion of such approved tax benefit is allocated for the benefit of the FSLIC Resolution Fund.

Mr. CHAFEE. Mr. President, before we agree to this amendment, as amended, there is a little problem on this side that we are looking into. I would like a little time if we could.

Mr. BENTSEN. Yes.

Mr. CHAFEE. I will do whatever the chairman wishes.

Mr. BENTSEN. 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. CHAFEE. 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. CHAFEE. Mr. President, I ask unanimous consent that we may set aside temporarily the Metzenbaum amendment, pending clearance on this side, and proceed to an amendment that has been agreed to, a Pressler amendment dealing with carjacking.

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

AMENDMENT NO. 3212

(Purpose: To prevent and deter auto theft)

Mr. CHAFEE. Mr. President, on behalf of Senator PRESSLER, 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 Rhode Island [Mr. CHAFEE], for Mr. PRESSLER, proposes an amendment numbered 3212.

Mr. CHAFEE. 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:

TITLE —CAR THEFT PREVENTION AND DETERRENCE

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Car Theft Prevention and Deterrence Act".

**SEC. 02. PURPOSE.**

It is the purpose of this Act to take effective measures to thwart motor vehicle theft for transportation (including joyriding) and the use of stolen vehicles in the commission of a crime (including theft for profit, theft to defraud insurance companies, and carjacking).

SUBTITLE A—ENHANCED PENALTIES FOR AUTO THEFT

**SEC. 11. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.**

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2119. Motor vehicles**

"A person who, possessing a firearm (as defined in section 921), takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person by force and violence or by intimidation, or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 15 years, or both; and

"(2) if serious bodily injury (as defined in section 1365) results, shall be fined under this title, imprisoned not more than 25 years, or both; and

"(3) if death results shall be fined under this title, imprisoned for any number of years or for life, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

(b) SENSE OF CONGRESS.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, it is the sense of Congress that the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, should continue to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and, as appropriate and consistent with the proper exercise of prosecutorial discretion, prosecute persons who violate that section and other Federal laws relating to car theft.

**SEC. 12. IMPORTATION AND EXPORTATION.**

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 13. TRAFFICKING IN STOLEN VEHICLES.**

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 14. CIVIL AND CRIMINAL FORFEITURE.**

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce.".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following new paragraphs:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce),

shall order that the person forfeit to the United States any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the violation.".

SUBTITLE B—TARGETED LAW ENFORCEMENT

**SEC. 31. PURPOSE.**

The purpose of this subtitle is to supplement the Edward Byrne Memorial State and Local Law Enforcement Assistance Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 500 et seq.) to help the States to curb motor vehicle thefts and the related violence.

**SEC. 32. DEFINITIONS.**

In this subtitle:

"Anti Car Theft Committee" means an entity the resources of which are devoted entirely to the activities described in section _34(b)(4).

"Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

"State" has the meaning stated in section 901 of title I of the Omnibus Crime and Control and Safe Streets Act of 1968 (42 U.S.C. 3791).

**SEC. 33. GRANT AUTHORIZATION.**

The Director shall make grants to Anti Car Theft Committees that submit applications in compliance with the requirements of this chapter.

**SEC. 34. APPLICATION.**

(a) SUBMISSION.—To be eligible to receive a grant under this chapter, the chief executive of an Anti Car Theft Committee shall submit an application to the Director.

(b) CONTENT.—An application under subsection (a) shall include the following:

(1) A statement that the applicant is either a State agency or an agency of a unit of local government.

(2) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under the grant.

(3) A statement that the resources of the applicant will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the exportation of stolen vehicles.

(5) A description of the budget for the applicant for the fiscal year for which a grant is sought.

**SEC. 35. AWARD OF GRANTS.**

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the funds available under this subtitle for a fiscal year that is equal to the proportion of the number of motor vehicles registered in the State to the number of motor vehicles registered in all of the States.

(b) GRANT AMOUNTS.—

(1) SINGLE APPLICANT.—Subject to subsection (c), if one Anti Car Theft Committee in a State submits an application in compliance with section 34, the Director shall award to that committee a grant equal to the amount of funds allocated to the State under subsection (a).

(2) MULTIPLE APPLICANTS.—(A) Subject to subsection (c), if 2 or more Anti Car Theft Committees in a State submit applications in compliance with section 34, the Director shall award to those committees grants that in sum are equal to the amount of funds allocated to the State under subsection (a).

(B) The Director shall allocate funds among 2 or more Anti Car Theft Committees in a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient committees in the State.

(c) LIMITATION.—In no case shall an Anti Car Theft Committee receive a grant in an amount that is greater than 50 percent of the amount budgeted for the committee prior to the making of the award.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

**SEC. 36. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle $10,000,000 for each of fiscal years 1993, 1994, and 1995.

SUBTITLE C—REPORT REGARDING STATE MOTOR VEHICLE TITLING PROGRAMS TO COMBAT MOTOR VEHICLE THEFTS AND FRAUD

**SEC. 41. TASK FORCE.**

(a) ESTABLISHMENT.—The Secretary of Transportation and the Attorney General, acting jointly, may, as soon as practicable after the date of enactment of this Act but not later than 180 days after that date, establish a task force to study problems that relate to motor vehicle titling and controls over motor vehicle salvage that may affect the motor vehicle theft problem.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation or the Secretary's delegate;

(2) the Attorney General or the Attorney General's delegate;

(3) the Secretary of Commerce or the Secretary's delegate;

(4) the Secretary of the Treasury or the Secretary's delegate;

(5) at least 3 representatives to be designated by the Attorney General;

(6) at least 5 representatives of State motor vehicle departments to be designated by the Secretary of Transportation; and

(7) at least 1 representative of each of the following groups to be designated by the Secretary of Transportation:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Automobile Theft Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation or the Secretary's delegate shall serve as chair of the task force. The task force may also invite representatives of the Governors and State legislatures to participate.

(d) STUDY REQUIREMENTS.—The study required by subsection (a) shall—

(1) include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles; and

(2) consider the adoption of a title brand on all certificates of title indicating whether a vehicle—

(A) has previously been issued a title brand;

(B) has been rebuilt or reconstructed; or

(C) has been damaged by flood.

(e) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date on which the task force is established, the task force shall submit to the President, the Congress, and the chief executive officer of each State a report containing the results of the study required by subsection (a).

(2) CONSULTATION AND REVIEW.—The report described in paragraph (1) shall be made after consultation with interested persons and a review of laws, practices, studies, and recommendations regarding the matters described in subsection (d).

(3) CONTENTS.—The report described in paragraph (1) shall—

(A) specify the important aspects of motor vehicle antitheft measures necessary to prevent—

(i) the disposition or use of stolen motor vehicles or the major components of motor vehicles; and

(ii) the commission of insurance and other fraud based on false reports of stolen vehicles;

(B) identify antitheft measures for which national uniformity is crucial to the effectiveness of the measure;

(C) recommend ways of obtaining any national uniformity that is necessary; and

(D) include recommendations for legislative or administrative action at the State or Federal level and for action by industry and the public to deal with the problem of motor vehicle theft.

Mr. PRESSLER. Mr. President, recently, a woman from the Washington, DC, area was unmercifully dragged along the street outside her automobile during a carjacking. The criminals, in an act of unparalleled brutally, watched as she was dragged along, helplessly entangled in a seatbelt. She died several miles later, fortunately before her body became impaled on a barbed-wire fence.

Sadly, stories like this are not uncommon. In Washington, officials recorded four carjackings at gunpoint during the month of May 1992 alone. In one case, a woman was left in critical condition after she collided head-on with a carjacker driving a stolen vehicle. The thief took the vehicle at gunpoint from a man who was trying to sell the car. During a test drive, the assailant drew a pistol and ordered the owner to get out of the vehicle. The collision occurred shortly after police chased the carjacker.

In our Nation's Capital, authorities reported 8,370 stolen automobiles in 1991. According to FBI reports, there was a 2-percent national increase in car thefts from 1990 to 1991. Southern and Western States experienced a 4-percent auto theft increase, while Midwestern States had a 2-percent rise. This epidemic is not geographically isolated—the entire Nation is at risk.

Without stricter laws and tougher law enforcement, innocent citizens will continue to be harassed by violent auto thieves. Auto theft is a lucrative professional business. The public is sick and tired of paying the high price of criminal activities.

The sophisticated alarms, steering wheel locks, and homing devices installed by desperate auto owners as thefts rise are prompting auto thieves to devise new criminal strategies. Carjacking has become a viable alternative for the professional car thief. Today's criminal can just point a weapon and take a car, without the hassle of breaking the windows or propping the ignition.

For this reason, I am offering the car-theft prevention and deterrence bill as an amendment to H.R. 11. This amendment, which is similar to Title I of the Senate version of the Anti Car Theft Act of 1992 (S. 2613) that I introduced last April, offers local authorities the tools they need to slow the growing auto theft epidemic. After discussions with several South Dakota auto dealers, parts manufacturers, and parts recyclers, I came to the conclusion that the original bill S. 2613, did not accomplish its aims. In fact, provisions within that bill would actually harm the legitimate auto dealers and parts salvagers. While I believe that the original legislation, patterned after Representative SCHUMER's Anti Car Theft Act, has good intentions, it could cause great economic burdens for small businesses.

My amendment, though, merely subjects carjackers who use a firearm to Federal penalties. Specifically, the legislation subjects armed carjackers to a minimum of not more than 15 years in prison, fines, or both. If serious bodily injury occurs during an armed carjacking, the penalty increases to not more than 25 years in prison, fines, or both. Finally, if an innocent victim dies as a result of the incident, a carjacker would be subject to fines, and the possibility of a life sentence in prison. Additionally, the amendment increases the possible prison sentence for the importation and exportation of stolen vehicles from 5 years to 10 years.

The bill authorizes the establishment of a task force to study problems relating to motor vehicle titling and controls over motor vehicle salvage which may affect the theft problem. This provision will help determine the most effective auto theft control options available.

The car theft prevention and deterrence bill would punish more severely the carjacking criminals who are plaguing our highways. Local law enforcement officials need this bill to help roll back the recent explosion of auto theft. Let's not miss this opportunity to stop modern day highwaymen in their tracks.

Mr. CHAFEE. Mr. President, this amendment subjects carjackers who use a firearm to Federal penalties. Specifically, the legislation subjects armed carjackers to a minimum of not more than 15 years in prison, fines, or both.

If serious bodily injury occurs during an armed carjacking, the penalty increases to not more than 25 years in prison, fines, or both. Finally, if an innocent victim dies as a result of the incident, a carjacker would be subject to fines and the possibility of a life sentence in prison.

Additionally, the amendment increases the possible prison sentences for importation and exportation of stolen vehicles from 5 to 10 years. It also authorizes the establishment of a task force to study problems relating to motor vehicle titling and controls over motor vehicle salvage, which may affect the theft problem.

Mr. President, this has been cleared with the Judiciary Committee and everybody we know who might possibly have an objection.

Mr. BENTSEN. Let me say, speaking for the majority on that one, we are checking now to see if we have any objection on this side. The manager of the bill for the majority has seen it and has no objection to it. Let me make sure it is cleared on this side.

I know of no objection on this side.

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

The amendment (No. 3212) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3211 TO AMENDMENT NO. 3210

The PRESIDING OFFICER. The pending question is the Dole second-degree amendment number 3211. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3211), was agreed to.

Mr. CHAFEE. 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. DOLE. 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. DOLE. The question is on the Metzenbaum amendment as amended?

AMENDMENT NO 3210, AS AMENDED

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

The amendment (No. 3210), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3207

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

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

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

AMENDMENT NO. 3213

(Purpose: To require the Secretary of the Treasury to perform a study of the structures, operations, practices and regulation of Japan's capital and securities markets, and their implications for the United States)

Mr. DASCHLE. 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 South Dakota [Mr. DASCHLE] proposes an amendment numbered 3213.

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

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

The amendment is as follows:

At the end of the Committee Substitute, insert:

TITLE —STUDY OF JAPAN'S CAPITAL AND SECURITIES MARKETS

**SEC. . SHORT TITLE.**

This title may be cited as the "Foreign Capital and Securities Markets Study Act of 1992".

**SEC. . FINDINGS.**

The Congress finds that—

(1) Japan's capital and securities markets have assumed a global significance;

(2) growing interaction between the capital and securities markets of the United States and Japan can affect national policies on exchange rates, investment, fiscal policy, and public debt;

(3) Japan's capital and securities markets have different structures, operations, practices, and regulatory regimes than United States markets;

(4) the different structures, operations, practices, and regulatory regimes of Japan's capital and securities markets could cause significant economic effects in the United States; and

(5) a study by the Secretary of the Treasury therefore is required to gain a fuller understanding of the structures, operations, practices, and regulation of Japan's capital and securities markets and their implications for the United States.

**SEC. . STUDY OF CAPITAL AND SECURITIES MARKETS.**

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall conduct a study of the capital and securities markets of Japan in accordance with subsection (b). Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the structures, operations, practices, and regulation of Japan's capital and securities markets, and their implications for the United States.

(b) STUDY TOPICS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) with regard to Japan's capital and securities markets—

(A) methods used by Japanese companies to raise capital, and the cost of such capital, at present and historically;

(B) Japanese methods of corporate governance, particularly with regard to the effectiveness of shareholder meetings, proxy solicitations, and other methods of shareholder participation, the strength of the consumer movement in Japan and its implications for shareholder rights, techniques used by corporate management regarding shareholder participation in corporate governance, and the general effectiveness of shareholder rights in the supervision of corporate managers;

(C) practices and techniques used by Japanese securities brokers and dealers;

(D) the prevalence of loss guarantees and similar practices in securities dealing;

(E) the prevalence of companies having common directors, especially directors common to financial institutions and client industrial companies;

(F) the practice known as "stable shareholding" and other reciprocal shareholding relationships, especially between vendors and customers;

(G) the role played by banks and other financial institutions in capital and securities markets, particularly with regard to equity participation, participation in corporate governance, investment practices, and adequacy of collateral;

(H) the financial strength of Japanese banks, including the adequacy of capital and loan loss reserves, the impact of current trends in securities values on bank capital, and the impact of current trends in real estate values on bank profitability, loan defaults and the adequacy of collateral;

(I) trends in Japanese real estate and securities values, particularly in relation to savings rates, the adequacy of collateral, loan defalcations, bankruptcies, investment in the United States, and capital repatriation from the United States;

(J) the adequacy of disclosure requirements imposed on industrial corporations, banks, securities houses, and other financial institutions and the extent of compliance by such organizations, including disclosure of primary bank and reciprocal or similar shareholding relationships;

(K) the use of securities and real estate holdings as collateral, and the implications of any decline in value of such collateral; and

(L) the adequacy of judicial relief available to foreign investors claiming injury under Japanese law, including, but not limited to, the availability of administrative remedies, the sufficiency and effectiveness of discovery procedures and the timeliness of relief; and

(2) with regard to the economic effects of such markets on the United States—

(A) the magnitude of United States investment in Japanese securities, particularly by United States pension funds, and the implications for United States investors of the structures, operations, practices, and regulation of Japan's capital and securities markets, including the safety of securities investments, the validity of price and volume signals on Japanese exchanges, the ability to participate in corporate governance, and other protections of shareholders' rights;

(B) the implications for United States securities markets, particularly the risk that developments in Japan could have consequences for the United States;

(C) the implications for United States capital markets, including international liquidity, United States interest rates, Japanese investment in the United States, capital repatriation to Japan, and domestic capital supply;

(D) the effect on United States macroeconomic policies, including interest rate policy, exchange rate policy, fiscal policy, monetary policy, and public debt policy;

(E) the implications for the competitiveness of United States enterprises, including the comparative cost of capital, duties to shareholders, research and development expenditures, and investments in plant and equipment; and

(F) the effectiveness of remedies available to United States investors in Japanese securities, and the amount of dealing in Japanese securities in the United States, whether directly or indirectly.

(c) CONSULTATIONS.—The Secretary shall consult with the Chairman of the Securities and Exchange Commission, the United States Trade Representative, and such other agencies or persons as the Secretary may deem necessary to complete the study and report required under this Act. The Secretary may consult with agencies of the Government of Japan, Japanese exchanges, and such other Japanese persons or organizations as the Secretary may deem appropriate.

**SEC. . DEFINITIONS.**

For purposes of this title the term "security" has the meaning given such term by section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

Mr. DASCHLE. Mr. President, the amendment directs the Treasury Department to conduct a 1-year study of Japan's financial system.

It is derived from S. 1861, legislation that I introduced last year and that is cosponsored by Senator BROWN.

As witnesses have testified before the Finance Committee, United States policymakers need a better understanding of the Japanese financial system, its influence on the United States economy, and the competitive advantages the system confers on Japanese corporations.

Japan's financial structure has given Japanese firms access to cheap capital and other advantages. Financial ties among Japanese firms deter foreign investment in Japanese public corporations.

Japanese institutions have been heavily involved in financing the United States Government's budget deficit. Instability in Japanese financial markets could affect the ability of Japanese investors to finance our debt.

Because of the importance of the Japanese financial system to the competitiveness of American companies, and to the long-term stability of the United States economy, policymakers need a more thorough understanding of how the Japanese financial system works and how it affects our economy.

I am aware of no opposition to this amendment.

In March of this year, before the Finance Committee, I asked Treasury Assistant Secretary Olin Wethington whether a study of the kind called for in this amendment would be helpful to policymakers and business people. Mr. Wethington agreed that additional information and analysis on Japan's financial system is required.

I urge the adoption of my amendment.

Mr. CHAFEE. Mr. President, there is no objection to the amendment on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3213) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3214

(Purpose: To amend titles II and XVI of the Social Security Act to strengthen the criteria for the selection of representative payees and the procedures for monitoring the performance of representative payees)

Mr. CHAFEE. Mr. President, on behalf of the Senator from California, 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 Rhode Island [Mr. CHAFEE], for Mr. SEYMOUR, proposes an amendment numbered 3214.

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

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

The amendment is as follows:

On page 1742, after line 24, insert the following:

**SEC. 7179. AMENDMENTS RELATED TO REPRESENTATIVE PAYEES.**

(a) CRITERIA FOR THE SELECTION OF REPRESENTATIVES PAYEES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue regulations regarding the criteria for the selection of representative payees under sections 205(j) and 1631(a)(2) of the Social Security Act within 180 days of the date of the enactment of this section.

(2) CONTENT OF REGULATIONS.—The regulations issued under subsection (a) shall contain criteria for the selection of representative payees and procedures for monitoring the performance of representative payees, as provided in subsection b, c, and d, that are more stringent than the criteria and procedures set forth in the guidelines in effect on the date of the enactment of this section.

(b) DISQUALIFICATION OF CERTAIN CONVICTED FELONS AS REPRESENTATIVE PAYEES.—Section 1631(a)(2)(B)(iii) (42 U.S.C. 1383(a)(2)(B)(iii)) is amended—

(1) by striking "or" at the end of subclause (II);

(2) by striking the period at the end of subclause (III) and inserting "; or"; and

(3) by adding at the end the following new subclause:

"(IV) such person is applying on behalf of a drug addict or alcoholic (as defined in section 1611(e)(3)(A)) and has been convicted of—

"(aa) a violation of section 208 or 1632;

"(bb) a drug-related offense;

"(cc) a crime classified as a felony under State or Federal law; or

"(dd) in the case of a State which does not classify any crime as a felony, a crime which is punishable by death or imprisonment for more than 1 year.".

(c) PENALTY FOR MISUSE OF FUNDS.—

(1) AMENDMENTS TO SOCIAL SECURITY.—Section 205(j)(1) (42 U.S.C. 405(j)(1)) is amended by adding at the end the following new sentence: "Any representative payee who has misused any individual's benefit paid to such representative payee pursuant to this subsection may be subject to a fine or imprisonment under section 208.".

(2) AMENDMENT TO SSI.—Section 1631(a)(2)(A)(iii) (42 U.S.C. 1383(a)(2)(A)(iii)) is amended by adding at the end the following new sentence: "Any representative payee of an individual or eligible spouse who has misused any benefits which have been paid to such representative payee pursuant to clause (ii) may be subject to a fine or imprisonment under section 1632.".

(d) EXCEPTION FOR CREDITORS WHO PROVIDE TREATMENT FOR SUBSTANCE ABUSE.—

(1) AMENDMENTS TO SOCIAL SECURITY.—Section 205(j)(2)(C) (42 U.S.C. 405(j)(2)(C)) is amended—

(A) in clause (iii)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

(2) AMENDMENTS TO SSL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) us amended—

(A) in clause (v)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State; or"; and

(B) in clause (vi), by striking "clause (ii)(V)" and inserting "clause (iii)(VI)".

• Mr. SEYMOUR. Mr. President, I rise today to express my concern over an abuse of the Social Security Administration. Persons who have been entrusted to assist individuals disabled from a life of drug and alcohol abuse, with their supplemental security income have instead served to cheat them and the taxpayers.

Under title XVI of the Social Security Act of Drug Addiction and Alcohol Policy, individuals who are drug addicted or are alcoholics receive disability checks. If an addict is approved for benefits, that person must also have an approved payee, someone who receives the checks and then doles out the money to the addict. Recipients are not supposed to receive benefits if they are incarcerated and they must also attend a treatment program. However, with this population, it is frequently difficult to find responsible representative payees. Most of the addicts have cut themselves off from family and friends by the time they reach this stage of severe disability. One-third of all persons serving as payees are nonrelated individuals—a roommate, landlord, or just a friend. Many times, an addict's payee is another addict. If the client is put in jail, the only way the Social Security Administration will know about it is if the payee returns the checks.

Within the OBRA 1990 regulations, provisions were made to reform the screening process to obtain representative payees. Despite this effort, the abuses continue.

Perhaps the most distressing example of this abuse derives from my own State of California. In Bakersfield, CA, where substance abusers incarcerated in State prison or local jails continue to receive SSI benefits through their monitors or payees, even though Federal regulations specifically prohibit this practice. Similarly, in Denver, CO, homeless individuals were using the addresses of liquor stores to receive their SSI benefits, and pay off debts owed to the owners. Clearly, the current system is not working.

Today, approximately 34,000 Americans receive SSI benefits under the drug addiction and alcohol abuse provision. More than half of these individuals reside in my State of California or in the State of Illinois. Our Nation's taxpayers spend $57 million annually in SSI drug addiction and alcohol abuse benefits and monitoring costs each year. In 1991, there were 1.4 million SSI representative payees. Of these, only 13 were investigated for fraud and abuse, while in only 2 of these cases were misused funds fully recovered. Mr. President, I refuse to ask the California taxpayers to spend another $57 million this year for benefits that are being spent at the local liquor store, or on the corner in drug sales. Therefore, I stand before you today to introduce legislation that will restrict representative payees and increase monitoring of the system.

Due to the varying drug addiction and alcohol abuse eligibility standards between States, a clear, uniform interpretation of the drug addiction and alcohol abuse eligibility regulation does not exist. Therefore, I propose a new selection process for representative payees that are more stringent than the criteria and procedures set forth in previous years. A representative payee may be a spouse, parent, sibling, or unrelated member of the community responsible for handling the financial affairs of the drug addiction and alcohol abuse SSI recipient.

Through this legislation, representative payees will be subject to a strict screening process to determine if they have been convicted of a crime classified as a felony under State or Federal law.

After a representative payee has been selected SSA is responsible for monitoring the use of SSI funds and misuse of these funds will be punishable by a substantial fine and/or imprisonment.

Mr. President, I believe the time for this legislation is long overdue. Since the revision of the eligibility standards for supplemental security income in 1986, the number of individuals receiving SSI under the drug addiction and alcohol abuse provision has grown exponentially. Although I have always supported expanding treatment services for those individuals suffering from drug and alcohol abuse, I am concerned this SSI Program is not being delivered with the intentions of its creation. If legislation is not passed to curtail benefits being granted to incarcerated individuals, we will continue funding this circle of abuse.•

Mr. CHAFEE. Mr. President, this amendment deals with the problems that have arisen with the cheating by individuals who are receiving SSI disability benefits. This amendment has been cleared on both sides.

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

Mr. BENTSEN. Mr. President, I do not know what the amendment is. I would like to be apprised of it.

Mr. CHAFEE. Mr. President, under title 16 of the Social Security Act of drug addiction and alcohol policy, individuals——

Mr. BENTSEN. Is this the Seymour amendment?

Mr. CHAFEE. Yes.

Mr. BENTSEN. I have heard enough on it that I have seen this particular amendment. I see no objection to it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3214) was agreed to.

Mr. METZENBAUM. Before the motion to reconsider, may I inquire of the Senator from Rhode Island, is this the Seymour amendment?

Mr. CHAFEE. Right.

Mr. METZENBAUM. Is this the one having to do with the payee?

Mr. CHAFEE. Yes, it has to do with those receiving SSI benefits with drug addiction problems.

Mr. METZENBAUM. I have no objection.

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

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

The motion to lay on the table was agreed to.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

### AMERICAN TOURISTER AND CBI DUTY REDUCTIONS

Mr. CHAFEE. Mr. President, if I may have the chairman's attention for a moment, I would like to discuss a provision in this bill that will have a serious impact on a company in my State.

The company to which I refer is American Tourister, headquartered in Warren, RI. Tourister makes hard luggage in Rhode Island, employing 600 people.

The Rhode Island plant does not make soft luggage. Indeed, virtually no manufacturing of soft luggage occurs in the United States; most soft luggage sold here is imported from Pacific rim countries. In 1989, however, American Tourister stopped buying soft luggage in the Far East and opened its own soft-luggage manufacturing operation in the nearby Dominican Republic—using raw materials sourced mostly in the United States. This Dominican Republic facility directly employs 750 people and indirectly supports hundreds more.

In addition, 2 years later, American Tourister opened a cutting and distribution factory in Jacksonville, FL, to cut the fabric used in the Caribbean plant and to distribute the final luggage product. This Jacksonville plant provides more than 100 local jobs.

Now, one of the reasons why American Tourister chose to stop importing soft luggage and start up the Dominican plant was the promise of the Caribbean Basin Initiative and the accompanying duty reductions. Under the 1990 amendments to the Caribbean Basin Act, the President is directed to proclaim duty reductions on a number of articles, including baggage but not including textiles. And indeed he did so, in a proclamation issued on May 1 of this year.

However, there was some confusion as to whether the duty reductions

could apply to luggage that is made partly of textiles—in other words, soft luggage. The proclamation said "yes," but congressional history said "no."

The bill before the Senate includes a provision to reaffirm the intent of Congress at the time the CBI amendments were enacted, that is, that if the textiles used in a product are covered by textile agreements, that that product cannot receive the duty reduction.

While this may make consistent the language of the statute with the original intent, it also means that the soft luggage made by American Tourister cannot qualify for any duty reduction, modest though it may be.

I deeply regret that this is so. Here we have American Tourister, a U.S. company, which has stopped importing soft luggage from the Far East and begun to make it closer to home. As a result—

Tourister is helping the Dominican Republic—a goal of the CBI—by creating jobs in the region;

They are helping the U.S. economy by the creation of a new Florida facility, with all the accompanying jobs;

They are using U.S.-made textiles in their manufacturing, thereby boosting the U.S. textile industry with a new $16 million market; and

They are not doing any of this activity at the expense of U.S. employment or U.S. manufacturing interests, since the luggage they now manufacture used to come ready made from the Far East.

It seems to me this is just the kind of investment the CBI Program should encourage: It redirects production from the Far East to North America, and it creates a new market for the textile industry. And yet Tourister will fail to qualify for a duty reduction.

This just does not make sense; indeed, all the parties involved agree that this is a shame. In the coming months, I hope to work together with the chairman and the other members of the Finance Committee to find a mutually desirable legislative solution. Let us make this a win-win situation for all involved.

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

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

Mr. BENTSEN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the Simon amendment No. 3207.

Mr. BENTSEN. Mr. President, I ask unanimous consent to temporarily lay that aside for the consideration of an amendment.

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

AMENDMENT NO. 3215

(Purpose: To require a study of municipal bond funds)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Senator SASSER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. SASSER, proposes an amendment numbered 3215.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . MUNICIPAL BOND FUND STUDY.

The Congressional Budget Office shall conduct a study of municipal bond funds currently operating in the United States and shall report its findings to the Committee on Finance and the Senate Budget Committee no later than December 31, 1992. The study shall (1) indicate the types of local capital projects supported by municipal bond funds, (2) the Federal, State, and local budgetary impacts of municipal bond funds, and (3) the need, if any, of additional bonding authority for municipal bond funds under the 1986 Tax Act.

Mr. SASSER. Mr. President, this amendment would provide for a Congressional Budget Office [CBO] study of municipal bond banks and municipal bond funds currently operating in this country.

A number of States, including Tennessee, have utilized municipal bond banks and municipal bond funds to help small municipalities meet their critical capital financing needs.

In Tennessee, we created a municipal bond fund in 1985 to give our municipalities a low-cost alternative for financing capital improvement projects. Since 1985, approximately $120 million in bonds have been issued. Proceeds from these bonds have helped more than 100 small cities and towns meet their critical capital financing needs at a reasonable cost.

This financing program has been one of the most successful ones ever run in the State of Tennessee.

It is my understanding that similar bond banks and bond funds exist in Alaska, Illinois, Indiana, Louisiana, Michigan, Maine, Mississippi, New Hampshire, New York, and Vermont to name a few States.

These bond funds and bond banks help small municipalities finance school construction, sewer and water systems, roads and other projects that enhance their economic potential.

The State instrumentalities that offer these low-cost bonds to localities also either provide full faith and credit or moral obligation backing to ensure against municipal defaults. To date, few if any municipalities have reneged on their obligations.

State bond banks do face some limitation on their activities due to the arbitrage and private activity limitations imposed on State-local bonds under the 1986 Tax Act. Removal or modification of these limitations might spur more of this low-cost borrowing, creating more infrastructure and jobs in small communities throughout the nation.

That is why I offer this amendment to have the Congressional Budget Office [CBO] study municipal bond funds and municipal bond banks. This study will provide the Congress with some guidance as to ways in which the future of these bond banks can be enhanced to promote more infrastructure investment, economic growth, and job creation in small communities throughout the Nation.

Mr. BENTSEN. I know of no objection to the amendment on this side.

Mr. PACKWOOD. There is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3215) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3216

(Purpose: To delay for 1 year the effective date of the charitable contribution substantiation requirements to allow the Internal Revenue Service time to issue regulations)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 3216.

Mr. MOYNIHAN. 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 1743, line 16, after "1992" insert ", except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992".

On page 1744, line 18, strike "55 percent" and insert "40 percent".

On page 1745, line 6, strike "July 1, 1993" and insert "January 1, 1994".

On page 1747, line 9, strike "1993" and insert "1994".

On page 1749, strike lines 12 through 14, and insert:

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

(2) REGULATIONS.—The Secretary of the Treasury or his delegate shall, not later than July 1, 1993, prescribe such regulations as are necessary to implement the amendments made by this section and section 8003.

Mr. MOYNIHAN. Mr. President, this amendment has been approved on both sides. It goes to sections 8003 and 8004 of the bill having to do with the new substantiation rules for charitable contributions. What we propose to do is to put off those rules for 1 year so that the Treasury may issue regulations which it is instructed to do and which gives us time for full consultation so everyone involved will feel comfortable with the result, which we believe they will do; it can be done. There is a cost which is paid for in the amendment and agreed as being adequate.

Mr. President, I believe that is the case.

Mr. PACKWOOD. Mr. President, there is no objection on this side.

Mr. BENTSEN. Mr. President, I know of no objection on this side. I think it is a meritorious amendment.

Mr. MOYNIHAN. I thank the managers.

Mr. BENTSEN. We appreciate the consideration of the Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3216) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. I thank the Chair. I thank the managers.

## EXECUTIVE SESSION

### TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS—THE START TREATY

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider Executive Calendar Nos. 45 and 46, the Treaty with the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms, START Treaty, and the accompanying protocol.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

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

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

The motion to lay on the table was agreed to.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Executive Calendar Order No. 45 (Treaty Doc. No. 102-20), the Treaty with the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (The START Treaty), and Executive Order No. 46 (Treaty Doc. 102-32), a Protocol to the START Treaty:

George Mitchell, Claiborne Pell, Barbara A. Mikulski, Joe Biden, Dale Bumpers, Patrick Leahy, Richard Shelby, Brock Adams, Alan Cranston, Tom Harkin, Bill Bradley, Herb Kohl, Paul Sarbanes, David Pryor, Frank R. Lautenberg, Paul Wellstone.

## LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate resume legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

## TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3217

(Purpose: Relating to the application of passive loss limitations to timber activities and to provide fairer treatment for start-up companies with respect to the research and experimental credit)

Mr. PACKWOOD. 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 Oregon [Mr. PACKWOOD], for himself, and Mr. MITCHELL, Mr. HATFIELD, Mr. FOWLER, Mr. NUNN, Mr. BREAUX, Mr. SYMMS, and Mr. THURMOND, proposes an amendment numbered 3217.

Mr. PACKWOOD. 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 897, after line 21, insert:

**SEC. 2102. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.**

(a) APPLICATION OF MATERIAL PARTICIPATION RULES TO CERTAIN TIMBER ACTIVITIES.—

(1) IN GENERAL.—Treasury regulations sections 1.469-5T(b)(2)(ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(i) by 5 or fewer individuals,

(ii) or by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this subsection.

(B) TIMBER ACTIVITY.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(b) PASSIVE ACTIVITY LOSSES AND CREDITS REDUCED UNDER SECTION 108.—

(1) IN GENERAL.—Section 108(b)(2) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 108(b)(3) is amended by adding at the end the following new sentence: "The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

On page 1,811, after line 9, insert:

**SEC. . RESEARCH CREDIT BASE AMOUNT FOR START-UP COMPANIES.**

(a) IN GENERAL.—Clause (i) of section 41(c)(3)(B) (relating to the research credit definition of start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after September 30, 1992.

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

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

AMENDEMENT NO. 3218

(Purpose: To amend the Internal Revenue Code of 1986 to exclude from gross income payments which are accounted for by a state in determining state foster care payments)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 3218.

Mr. LEVIN. 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 1811, after line 9, insert the following new section:

**SEC. . CERTAIN FOSTER CARE PAYMENTS EXCLUDED FROM GROSS INCOME.**

(a) TREATMENT OF PAYMENTS.—Subparagraph (A) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

"(A) which is—

"(i) paid by a State or political subdivision thereof or a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), or

"(ii) paid by the Federal Government and taken into account by such State, political subdivision, or placement agency in determining the amount of a payment described in clause (i), and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made on or after the date of the enactment of this Act.

Mr. LEVIN. Mr. President, the purpose of this amendment is to make clear that foster care payments which are paid by the Federal Government and taken into account by the State or political subdivision as a foster care payment are not to be included in the foster care providers' gross income and consequently are not to be taxed.

This has always been the intent of Congress. The Finance Committee, the Ways and Means Committee have always intended this, but we have not been able to get a statement from the IRS on this matter.

Mr. BENTSEN. Mr. President, we have looked at this amendment on the majority side and its clarification, and we are delighted to support it.

Mr. PACKWOOD. It has been cleared on this side.

Mr. LEVIN. I would like to thank my colleague Chairman BENTSEN for agreeing to include this clarifying amendment in H.R. 11. I want to make clear that my amendment is not in any way a new interpretation of the Tax Code, but merely a statement of what Congress intended all along—that those foster care payments which are "paid by the Federal Government and taken into account by the State or political subdivision as a foster care payment" are not to be included in a foster care provider's gross income and consequently are not to be taxed.

Mr. BENTSEN. I am pleased to include this amendment in the bill before us and agree that this amendment does not change or expand the definition of a qualified foster care payment, but merely reinforces congressional intent in the face of what I understand has been a less-than-cooperative IRS. To state the obvious, this amendment codifies that certain payments from the Federal Government used in the calculation of foster care payments are not included in the gross income of a foster care provider. This amendment in no way is intended to affect whether payments from the Federal Government not used in the calculation of foster care payments are or are not included in an individual's gross income.

Mr. LEVIN. Exactly, the need for this amendment stems from the intransigence of the IRS to acknowledge the full scope and intent of the Tax Code regarding the exclusion of certain qualified foster care payments from the definition of gross income. My staff and I have been fighting this battle with the IRS for several years and our arguments regarding this issue have fallen on deaf ears. In the face of such intransigence, the only choice to guarantee that the full, historical scope of the Code is honored is to enact this amendment. Dedicated foster care providers deserve to have clarity on this issue.

Mr. BENTSEN. I am pleased to assist the Senator in that effort to assist our Nation's foster care families.

Mr. LEVIN. The Senator and his staff have been very helpful in our efforts to put this issue to rest and let us hope this amendment accomplishes that goal.

The PRESIDING OFFICER. Without objection, the amendment (No. 3218) is agreed to.

AMENDMENT NO. 3217

Mr. PACKWOOD. Is my amendment the pending business.

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. This is an amendment with two parts. The first part relates to small woodlot owners, and the present law in terms of proving whether you are an active manager of your property or not is based on an hourly test. If you work over 500 hours a year on your property, you are presumably active, and your losses are active losses.

If it is between 100 and less than 500 hours, you must prove you are active; it is not a presumption. If you are below 100 hours, you are not even allowed to prove it.

Almost all small woodlots, by definition involve less than 100 hours of management. It is normally a part time activity. You are working at something else and you work as much time as necessary on your woodlot. But if you work less than 100 hours a year, you are not even allowed to prove that you are actively managing, although it does not take a lot to manage. My amendment simply allows the small woodlot owner to attempt to prove that he is an active manager. It does not give it to him. He is allowed to prove it.

That, in essence, is it. It is coupled with a research and development tax credit change. High-tech and other companies receive a tax credit equal to 20 percent of the amount by which they increase spending on research and development over the previous years. In 1989, the Tax Code was changed so that the startup companies that began business in 1989 and after were treated more favorably than companies that started business between 1984 and 1988.

This amendment simply proposes that all startups that begin business after 1983 be treated the same. I believe it has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, we have examined this on the majority side. I know of no objections to it. We are ready to support it.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 3217) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I have three amendments here that have been approved on both sides. I understand there will be no objection.

Mr. PACKWOOD. That is correct.

AMENDMENT NO. 3219

(Purpose: Relating to limitation on State income taxation of pension income)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Mr. REID and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. REID, proposes an amendment numbered 3219.

Mr. BENTSEN. 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 1784, line 13, strike "or".

On page 1784, line 15, strike the period and insert ", or".

On page 1784, between lines 15 and 16, insert:

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or polit-

ical subdivision of a State, or an agency or instrumentality of either.

Mr. BENTSEN. As I said, the amendment on behalf of Senator REID has been cleared on both sides. This amendment by Senator REID is to make a minor technical correction to his provision in H.R. 11 which would prohibit States from taxing the pension income of nonresidents.

Mr. PACKWOOD. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3219) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3220

(Purpose: To expand the wine spirits authorized to be used in wine production)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Mr. LAUTENBERG and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. LAUTENBERG, proposes an amendment numbered 3220.

Mr. BENTSEN. 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 1428, between lines 19 and 20, insert the following:

**SEC. 4722. EXPANSION OF WINE SPIRITS AUTHORIZED FOR USE IN WINE PRODUCTION.**

(a) IN GENERAL.—Subsection (a) of section 5373 (relating to wine spirits) is amended—

(1) by inserting "or" at the end of paragraph (1),

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) any wine (standard or other than standard) or wine residues therefrom under such conditions as the Secretary may by regulations prescribe;", and

(3) by striking "natural wine or special wine" and inserting "standard wine or other than standard wine".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3220) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3221

(Purpose: Study on mileage deductions of loggers)

Mr. BENTSEN. Mr. President, I send an amendment to the desk on behalf of Mr. DASCHLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. DASCHLE, proposes an amendment numbered 3221.

Mr. BENTSEN. 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. . STUDY OF TRAVEL EXPENSES OF LOGGERS.**

(a) STUDY.—The Secretary of the Treasury shall conduct a study with respect to the deductibility of the travel expenses of an individual who is in the trade or business of cutting and skidding timber. Such study shall include an analysis of the facts and circumstances under which such individual may deduct for Federal income tax purposes expenses incurred when traveling between the individual's home and the job site.

(b) REPORT.—The Secretary of the Treasury shall, not later than July 1, 1993, report the results of the study conducted under subsection (a), including a recommendation as to whether or not travel expenses described in subsection (a) should be allowed as a deduction for Federal income tax purposes.

Mr. BENTSEN. We have no objection to the amendment on this side.

Mr. PACKWOOD. We approve of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3221) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3207

The PRESIDING OFFICER. The pending question is the Simon amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Simon amendment be laid aside in order to consider a Metzenbaum amendment.

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

AMENDMENT NO. 3222

Mr. METZENBAUM. 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 Ohio [Mr. METZENBAUM] proposes an amendment numbered 3222.

Mr. METZENBAUM. 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 1353, line 23, delete "75" and insert "50".

On page 1354, line 9, delete "75" and insert "50".

On page 1354, line 12, delete "25" and insert "50".

Mr. METZENBAUM. Mr. President, this amendment deals with a matter that was discussed at some length yesterday by Senator SIMON and myself having to do with the treatment of intangible assets, particularly goodwill. And the issue was disposed of by the Senate at the time of the amendment, which I supported strongly but was not accepted; but this now has to do with the pending cases.

The bill provides that those cases can be settled by the IRS with the taxpayer at, I think it is, 25 cents on the dollar, permitting the taxpayer to get 75 percent of his full claim.

I have been attempting to reverse the figures and make it 75–25 instead of 25–75. I have been able to work out, with the cooperation of the Senator from Texas, a reduced 50–50 figure. That is what this amendment provides.

Mr. BENTSEN. If the Senator will yield, I think this is a reasonable compromise, and I am quite prepared to support it. We would pay for this on a market by the reduction of the amortization from 10 years to 7 years. Does the Senator have the technical part that would modify his amendment?

AMENDMENT NO. 3222, AS MODIFIED

Mr. METZENBAUM. Mr. President, the chairman of the Finance Committee has touched on a point as to how it is paid for.

So I send a modification of my amendment to the desk, and I ask that it be included in the amendment pending.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 3222), as modified, is as follows:

On page 971, line 17, strike "The 10 taxable year period" and insert "the 7-taxable year period".

On page 1353, line 23, strike "75" and insert "50".

On page 1354, lines 9 and 12, strike "75" and "25", respectively, and insert "50" in both places.

Mr. METZENBAUM. Mr. President, the amendment I offer will significantly reduce the Government's losses in the so-called retroactive settlement provision found in the bill's section on intangibles.

In light of yesterday's discussion, I first want to clarify what the Government is setting for under H.R. 11 as reported by the Finance Committee. Under the current provision, corporations are given an outrageous choice that amounts to nothing more than a win/win proposition. If the corporation expects to win in court, it can choose to litigate its claim against the Government. However, if a corporation which has not yet come to a final settlement in court, determines that it will ultimately lose in court, the cor-

poration can take the Government's offer of settling its claim for 75 percent of the value assigned to the intangible by the corporation, and walk away like a bandit. The Government, on the other hand, is left with a mere 25 percent.

To put it another way, if the Government is likely to win those cases in which the corporation takes advantage of the settlement option contained in the bill, the Government will receive 25 percent. Let me repeat, the Government is only getting 25 percent. The corporation and other wealthy businesses and takeover artists are getting an outrageous gift of 75 percent.

Supporters of the retroactive settlement provision say that it is needed in order to clear out all of the pending litigation and other disputes over the deductibility of intangibles.

The litigation problem that everyone is so worried about has been created by corporations trying to get out of paying their taxes.

We need to look at the way this crisis in litigation actually evolved. It is a perfect example of big business taking advantage of the Tax Code.

When all of this started, there were only a few intangible items that taxpayers claimed. Now we have more than 158, according to GAO, and the list is growing.

The problem began when big corporations had to find a way to get rid of some of the tax liability they had as a result of mergers and acquisitions. They realized that it was to their advantage to try to classify everything as nongoodwill, and try to write off as much of it as possible.

The IRS had to challenge more and more of these cases, because they knew what the corporations were up to. But let's be serious. The IRS can't spend the time and money necessary to outgun corporate tax lawyers.

When ordinary taxpayers get audited, and the IRS says they've taken a deduction they're not entitled to, they usually have to pay more taxes.

But not if you're a big corporation. Big corporations hire tax lawyers, and go to court for years, and use every possible alternative to get out of paying the taxes which they know they owe, but don't want to pay.

That's really what's going on here. We are about to give a great big reward to all those corporations who were aggressive in trying to avoid their taxes. We're about to let all those corporations take 75 percent of a deduction they never should have had. That's just ludicrous.

Under my amendment we change these shares. Instead of getting 25 percent, the Government will now be getting 50 percent. The corporation will be limited to a windfall of 50 percent.

The retroactive settlement provision contained in this bill is bad policy because the only companies who take the settlement election will be those who know they will probably either lose in court or get less than 75 percent of what they claimed. It will be to their advantage to take the settlement election rather than risk losing in court.

My amendment is more equitable to the American people and more equitable to the Government because it reduces losses.

Why is the Senate being forced to give corporations such a windfall? The provision for retroactive settlement does not appear in the House version of the tax bill, so why do we have it here?

For the money?

Any claims of a revenue boost from this provision are just an illusion. The American taxpayer is paying for the tax breaks given to corporate America. How outrageous. What a slap in the face of the American taxpayer in this time of economic crisis.

The provision in H.R. 11 loses money in the long run and we should not be forced to accept it.

Mr. President, if we are forced to accept the retroactive settlement provision contained in the tax bill, let us at least give the Government a bigger share of the returns. My amendment will do just that.

Mr. MOYNIHAN. Mr. President, I have severe reservations about this matter.

I yield the floor.

Mr. DOMENICI. Parliamentary inquiry. What is the status of the situation at this point? Is there a unanimous-consent request?

Mr. METZENBAUM. Mr. President, the amendment has not been acted upon.

The PRESIDING OFFICER. The pending question is the Metzenbaum amendment.

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

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

AMENDMENT NO. 3207, AS MODIFIED

Mr. SIMON. Mr. President, I will modify the amendment I have before the body, that Senator HATCH and I introduced, in the following way.

There was a concern. Senator MOYNIHAN's staff and my staff have worked this out. I think it is now acceptable to everyone.

Mr. BENTSEN. I would say to my friend, I was engaged with staff in conversation on another amendment and frankly I do not know which amendment he is offering.

Mr. SIMON. This is the JOBS amendment. We have worked it out.

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

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

Mr. BENTSEN. Mr. President, I say to my friend from Illinois and the Senator from New York that I have had a chance, now, to look at the revision in the amendment and I see no objection to it.

Mr. SIMON. I thank the chairman of the committee.

Mr. DOLE. There is no objection on this side.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3207), as modified, is as follows:

On page 1699 after line 13, insert the following:

(c) MOST EFFECTIVE PROVIDERS TO HAVE ACCESS TO JOBS PROGRAM FUNDS—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each state shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided access to Federal funds provided under this part, in accordance with regulations issued by the Secretary."

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

The amendment (No. 3207), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

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

ACCRUAL ACCOUNTING

Mr. LEVIN. Mr. President, there is a provision in the bill before us, section 4513, which will treat income of certain warehouses differently than that income is currently treated under the tax law. I think the provision is, in one sense, actually fair and equitable, because the present tax law requires a cotton warehouse to treat as current income, money that it has not yet received and may or may not receive down the road for the storage of the cotton.

Right now, we actually are taxing people on income that they may never receive, and that is unfair. We are taxing people this year on income they may receive 2 years from now—and that is unfair. In other words, we are imputing income to these warehouses that is not received this year, and may not ever be received.

The problem that I have with this section of the committee bill is that it singles out cotton warehouses for the correction of the inequity, and there are other warehouses that currently must pay tax for income that is not received this year and for income which may never be received.

So it was my intention to send an amendment to the desk which would modify the code so that all warehouses would be treated the same way. My amendment would give the same fairness to other warehouses that this provision in the committee bill would provide for cotton warehouses.

And may I say that there are a lot of other small businesses, not in the warehouse business, that currently are treated unfairly in the Code because we impute income to them which they may never receive, such as tool and die shops.

It may take 2 years to build a jig or a fixture, and a small business may not be entitled to any money for 2 years, until 2 years down the road. But under the current Code, although there is no progress payment, that small business must pay a tax on income that it may get 2 years from now.

In the Finance Committee bill, we are correcting this today for cotton warehouses. My amendment would correct it for other warehouses. And, I hope that in the near future the Finance Committee and the Ways and Means Committee will address the same problem that exists for other businesses, such as tool and die manufacturers, that have income imputed to them currently that they did not receive and may never receive.

But my amendment was limited to warehouses in the way I described. I understand from the manager of the bill that he is going to seek in conference to broaden the language, if he possibly can, of section 4513 so that it at least will apply to all other warehouses that are similarly situated to the cotton warehouses that are referred to in that particular paragraph.

To summarize, Mr. President, section 4513 is entitled "Treatment of Certain Amounts Received by Operators of Licensed Cotton Warehouse." This provision of the committee bill is based on the entirely equitable premise that a taxpayer should not be penalized for failure to pay a tax on income until that taxpayer has actually received that income. What concerns me about this provision is not its premise, but rather its selectivity.

Why limit this provision to cotton warehouses? I asked this question particularly in light of an article that appeared in the Grand Rapids Press on October 27, 1991 entitled "Tool-and-Die Makers Say Tax Law Is Unfair and Hurts Their Industry." Just a couple of paragraphs from this article highlight the similarity of the situation at which section 4513 is directed and the situation faced by tool and die makers.

Quoting from the article:

Most everyone agrees it isn't fair, but Gordon Hendricks, president and owner of Walker Tool & Die, Inc. still has to pay income taxes and an interest penalty on money he won't get until 1992 * * * Essentially, suppliers are being made to pay taxes as if they were receiving periodic payments from automakers as a project progressed. Such payments are standard in other industries. But in reality toolmakers say they don't receive a dime from automakers until the entire, often long-term, tooling project is done. They say they are being taxed on revenue they haven't received.

Let me repeat that last sentence. "They say they are being taxed on revenue they haven't received." Sound familiar?

I have prepared an amendment to apply the rule in section 4513 for licensed cotton warehouses to any other similarly situated warehouse. It is the intent of the amendment to allow warehouses, regardless of whether they are licensed cotton warehouses, to elect to defer the liability of income until it is actually received, provided that they pay interest on the amount deferred.

It seems to me that imputing the receipt of income to people before they actually receive it is an example of where the drive for revenue for the Treasury overrides equity and common sense.

I urge the committee consider broadening this provision to extend beyond cotton warehouses when the bill is reconfigured in the conference. And, I urge the committee to approve in the near future legislation to apply to all businesses, not just warehouses, this same principle. I believe making this provision more generally applicable would improve the fairness of the Tax Code and make it less burdensome to other businesses.

Mr. BENTSEN. Mr. President, I understand the concern of the Senator from Michigan and I buy the logic of the argument about warehouses similarly situated. The problem we run into is on the cotton warehouses we had a cost estimate and we managed to put it in the legislation, understanding its cost. We do not have a cost estimate on the recommendation of the Senator from Michigan. And therefore that is why we cannot act on it at the present time.

But I think the logic of equity is with him and, subject to what the costs are, I will seek to broaden it to take care of that.

Mr. LEVIN. I thank my friend from Texas and look forward to what he may be able to achieve in the conference.

Because of that assurance I will not be offering this amendment.

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

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

AMENDMENT NO. 3223

(Purpose: To enhance the effectiveness of the United Nations International Driftnet Fishery Conservation Program, and for other purposes)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 3223.

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

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

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

**SEC. 01. SHORT TITLE.**

This title may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

**SEC. 02. FINDINGS AND POLICY.**

(a) FINDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44-225, 45-197, and most recently 46-215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46-215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-

scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46-215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46-215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

Subtitle A—High Seas Large-Scale Driftnet Fishing

**SEC. 21. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.**

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter,the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

**SEC. 22. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.**

Any denial of port privileges or sanction under section 21 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

**SEC. 23. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.**

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

**SEC. 24. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

Subtitle B—Fisheries Conservation Programs

**SEC. 31. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.**

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products", and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products", and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

**SEC. 32. ENFORCEMENT.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

**SEC. 33. TRADE NEGOTIATIONS AND THE ENVIRONMENT.**

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

Subtitle C—Fisheries Enforcement in Central Bering Sea

**SEC. 51. SHORT TITLE.**

This subtitle may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

**SEC. 52. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.**

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

**SEC. 53. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.**

(a) DENIAL OF PORT RIVALRIES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statues of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A reviewed list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

**SEC. 54. DURATION OF PORT PRIVILEGES DENIAL.**

Any denial of port privileges under section 53 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 53(b).

**SEC. 55. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.**

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 53(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 53(b).

**SEC. 56. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

**SEC. 57. TERMINATION.**

This subtitle shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 52 occurring prior to such termination date shall be conducted as if that section were still in effect.

Subtitle D—Miscellaneous Provisions

**SEC. 71. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.**

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

**SEC. 72. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.**

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernment Panel on Climate Change or any successor organization.

**SEC. 73. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.**

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

**SEC. 74. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN**

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

Mr. PACKARD. Mr. President, I rise to offer an amendment which is similar to a bill the Senate has passed three times. It deals with drift nets.

Let me give the Senate some recent history on this issue.

In August 1991, the Senate passed by unanimous consent my bill to impose sanctions on countries that do not stop drift net fishing.

In February 1992, the House passed a similar bill.

Since that time, the Senate has passed the drift net bill two more times.

Unfortunately, the House has added an unrelated and controversial provision to the bill dealing with foreign shipyard subsidies—the so-called Gibbons bill.

The drift net bill now appears to be stalled in the House.

We need to pass a drift net bill. It is for this reason that I am offering this amendment to the tax bill.

Here is what the amendment does:

It imposes mandatory sanctions on the fish, fish products, and sport fishing equipment of countries that do not stop drift net fishing by the end of the year.

It allows the President to impose additional sanctions on countries if the fish sanctions alone do not work.

It denies port privileges to vessels that engage in drift net fishing.

It restricts fishing in the central Bering Sea, in an area referred to as the donut.

Since Congress started debating the drift net issue 6 years ago, we have made a great deal of progress.

Congress' obvious resolve on this issue has gotten the attention of the major drift net countries.

It has also gotten the attention of the United Nations. In December 1991, the United Nations approved a resolution calling for a complete halt to drift net fishing the end of this year.

Some may wonder why, if the United Nations has acted, we need to pursue legislation. The reason is this: to ensure that there is the hammer of mandatory sanctions to back up the U.N. resolution.

Too often I have seen deadlines slip. That must not happen this time. This bill ensures that any country that chooses to ignore the U.N. resolution will pay a price.

As I said before, the Senate has passed drift net legislation similar to this amendment three times. I hope this is the last time we need to do so. I urge my colleagues to support this amendment.

Mr. BENTSEN. Mr. President, we have, as my colleague has stated, passed this three times in the Senate. I think it is meritorious. I know of no objection to it on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3223) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3224

(Purpose: To provide for the repeal of the user fee on recreational vessels)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 3224.

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

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

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —FEES

**SEC. 01. RECREATIONAL BOAT TAX REPEAL.**

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

**SEC. 02. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 19834 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.--The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Mr. BREAUX. Mr. President, this was a part of a package that has already passed the Senate on two separate occasions. It is part of the driftnet bill that Senator PACKWOOD just offered to H.R. 11. This is the legislation that repeals the so-called recreational user tax on recreational boaters.

When it passed before in the Senate, it contained an offset which was a filing fee for tariffs filed before the Federal Maritime Commission. People used to have to pay for it under our proposal.

What this amendment does is repeal the user fee, and we pay for it by a fee on automatic filings and the use of those filings before the Federal Maritime Commission. This measure, as well as the measure just offered by Senator PACKWOOD, as I said, has passed the Senate on two separate occasions.

I ask that it be accepted at this time as well.

Mr. BENTSEN. Mr. President, the Senator is right, it has passed twice before, and the manager of the legislation for the majority sees no objection to it.

Mr. PACKWOOD. No objection on this side.

Mr. HOLLINGS. Mr. President, I rise today to support Senator BREAUX's amendment repealing the Coast Guard recreational boat user fee.

I have opposed this unjust tax on our Nation's boaters since President Reagan first proposed it back in 1981. Congress blocked it then and each subsequent year through the 1980's. Unfortunately, the boat user fee was included 3 years ago in the budget summit agreement between President Bush and the congressional leaders, and was enacted as part of the Omnibus Report Reconciliation Act of 1990.

My objection to the Coast Guard recreational boat user fee is, and has always been, the fact that this is no true user fee. This thinly disguised tax is just one more gimmick that the administration has used to raise revenues while pretending—read my lips—that it is not levying new taxes. However, a boater user fee imposed where no services are provided is clearly no user fee.

First, the administration has chosen to charge this fee, which ranges from $25 for boats 16 to 20 feet, to $100 for boats over 40 feet, in areas where there is no Coast Guard presence. For example, South Carolina boaters on Lakes Marion and Moultrie, the Santee-Cooper Lakes, have to pay the recreational fee despite having no Coast Guard coverage. The situation is similar for other inland waters in my State, including the Cooper River, the Congaree River, the Saluda River, the Wateree River, and the Pee Dee River, where boaters have to pay the fee.

Second, all the money collected by the user fee goes to the general revenue fund where it is spent on everything except services to boaters. In fact, the user fee decal sold by the Coast Guard says right on it that "boaters paying for this decal can expect no increase in the quantity, quality or variety of services provided by the Coast Guard."

Third, the Coast Guard is actually cutting back its services to boaters. The share of the Coast Guard's budget spent on search and rescue has decreased by 25 percent since 1981, in large part because the Coast Guard is no longer a towing service for recreational boaters. In nonemergency cases, the Coast Guard now routinely turns over cases to commercial towers whose fee ranges from $100 to $125 per hour.

This user fee looks like a tax, smells like a tax, and bites like a tax. The recreational boater user fee is bad economic policy, and it is unfair. We need to repeal it as expeditiously as possible.

The amendment before the Senate today would do just that. The Senate substitute for H.R. 2152 provides for a phased repeal of the boater tax. Under these provisions, the Coast Guard user fee would be repealed on October 1, 1992, for boats 21 feet or less—70 percent of the boaters that have to pay the fee—on October 1, 1993, for boats 37 feet or less; and on October 1, 1994, for all remaining recreational boats.

As a budget offset, the amendment establishes a user fee for electronic access to the Federal Maritime Commission's [FMC] new Automated Tariff Filing and Information [ATFI] System. Individuals who electronically retrieve ATFI data would be charged $0.46 per minute. The fee is for remote computer access to the ATFI System. Individuals may elect to purchase the service or not to purchase the services. The ATFI System will organize the tariffs, or shipping rates, that are required to be filed with the FMC into a rate-quoting system, similar to the existing system operated by airlines for flight rates. Both the Congressional Budget Office and the Office of Management and Budget have estimated that the ATFI fee would generate adequate funds to offset the budget loss from the repeal of the Coast Guard user fee. I urge my colleagues to support adoption of this amendment to repeal this unfair boater's tax.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3224) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3225

(Purpose: Technical amendments)

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

The PRESIDING OFFICER (Mr. AKAKA). Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3225.

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

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

The amendment is as follows:

On page 1622, between lines 3 and 4, insert the following:

**SEC. 7005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any self-employment income on which such tax would have been imposed but for such exemption shall not be credited under section 212 of the Social Security Act, and, if such individual's primary insurance amount has been determined under section 215 of such Act, notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection.

**SEC. 7006. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.**

Section 203(h)(1)(A) (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

On page 1699, between lines 15 and 16, insert the following:

**SEC. 7135. NEW HOPE DEMONSTRATION PROJECT.**

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount no greater than the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (referred to in this section as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and as-

sistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the date of enactment of this Act.

On page 1703, between lines 3 and 4, insert the following:

**SEC. 7144. MODIFICATION OF THE 20-HOUR RULE.**

(a) IN GENERAL.—Section 403(l)(3)(D) (42 U.S.C. 603(l)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) For purposes of this paragraph, each hour of classroom instruction of an individual who is enrolled in a degree program offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) shall be considered 2 hours of participation in the program under part F.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective on the date of the enactment of this Act.

On page 1703, strike lines 20 through 26 and insert the following:

"(1) IN GENERAL.—

"(A) DEFINITION.—For purposes of this section, the terms 'community works progress project' and 'project' mean an activity that results in a specific, identifiable service or product that, but for this section, would not otherwise be done with existing funds.

"(B) PROJECTS DESCRIBED.—A community works progress project conducted under this section shall serve a significant public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.".

On page 1704, between lines 19 and 20, insert the following:

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each organization conducting a community works progress project under this section shall establish and maintain a procedure for the filing and adjudication of grievances from participants in such project, labor organizations, and other interested individuals concerning such project, including grievances regarding proposed placements of such participants in such project.

"(B) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance under this paragraph shall be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(C) DEADLINE FOR HEARING AND DECISION.—

"(i) HEARING.—A hearing conducted under this paragraph on any grievance shall be conducted not later than 30 days after the filing of such grievance.

"(ii) DECISION.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

"(D) ARBITRATION.—

"(i) IN GENERAL.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding.

"(iii) DEADLINE FOR DECISION.—A decision concerning a grievance subject to an arbitration proceeding shall be made not later than 30 days after the date such arbitration proceeding begins.

"(iv) COST.—The cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(E) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a community works progress project conducted under this section, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this paragraph.

"(F) REMEDIES.—Remedies for a grievance filed under this paragraph include—

"(i) suspension or termination of payments under this section for a community works progress project; and

"(ii) prohibition of the placement described in subparagraph (E).".

On page 1719, line 16, strike the end quotation marks and the end period.

On page 1719, between lines 16 and 17, insert the following:

"(j) INTERDEPARTMENTAL TASK FORCE.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall establish a task force to identify any Federal funds (in addition to the funds authorized under subsection (i)) that may be directed for use in the community works progress projects under this section and to identify any modifications to existing policies or procedures that would facilitate the implementation of such projects.

"(2) MEMBERSHIP.—The Task Force shall consist of at least 3 members and shall include 1 representative from each of the following agencies:

"(A) the Department of Health and Human Services;

"(B) the Department of Labor; and

"(C) the Department of Housing and Urban Development.

"(3) REPORT.—Not later than January 1, 1993, the task force shall submit a report to the Secretary, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Congress that includes any findings and recommendations of the task force.

"(4) ACTION ON RECOMMENDATIONS.—The Secretary, the Secretary of Labor, and the Secretary of Housing and Urban Development shall take such actions as may be necessary to carry out the recommendations of the task force.".

Strike line 17 on page 1737 through line 14 on page 1738 and insert the following:

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended—

(1) by striking "lands" and inserting "lands, and income, including interest up to $4,000 per annum derived from such income,"; and

(2) by striking "resource" and inserting "resource or income".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1992.

On page 1742, after line 24, insert the following:

**SEC. 7179. SELF-EMPLOYMENT PROGRAM.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Labor (hereafter in this section referred to as the "Secretary") may authorize not more than 10 States to establish and operate self-employment programs that meet the requirements of this section.

(b) REQUIREMENTS.—The Secretary may authorize a State self-employment program, if a State applies to participate in such program, and the Secretary determines that—

(1) the State program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in a self-employment program;

(2) the State program provides unemployment benefits only to individuals who are entitled to unemployment compensation under State law (without regard to any disqualification resulting from self-employment and without regard to any State law relating to availability for work, active search for work, or refusal to accept work);

(3) the State program contains a process to target individuals who have been permanently separated from their jobs or do not expect to be recalled to their jobs;

(4) benefits under the State program are available only to individuals who are likely to receive unemployment compensation for the maximum number of weeks that such compensation is available under the State law during a benefit year;

(5) the aggregate amounts of benefits payable to an individual under the State program with respect to any benefit year is limited to not more than 80 percent of the maximum amount of regular unemployment compensation payable to such individual for such benefit year; and

(6) the aggregate number of individuals receiving benefits under the State program does not at any time exceed 5 percent of the number of individuals receiving compensation under the State law at such time.

(c) BENEFITS.—If the Secretary authorizes a self-employment program for a State under this section, the State may use the State unemployment fund to provide cash unemployment benefits, exclusive of the expenses of administration, to individuals participating in the program. Such benefits shall be used to assist participating individuals in becoming self-employed.

(d) REPORTS.—

(1) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary under this section shall report annually to the Secretary on the number of individuals who participate in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

(2) REPORT TO CONGRESS.—Not later than December 31, 1995, based on the reports received from States operating self-employment programs under this section, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representa-

tives with respect to the operation of the State programs. The report shall contain the Secretary's recommendations regarding establishment of a permanent self-employment program as part of the regular unemployment compensation program.

(e) DEFINITIONS.—For purposes of this section, the terms "compensation", "regular compensation", "benefit year", "State", and "State law" have the respective meanings given such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) TERMINATION.—The provisions of this section shall not apply after September 30, 1996.

**SEC. 7180. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.**

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall be effective on October 1, 1993.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

Mr. BENTSEN. Mr. President, on behalf of the managers, I offer an amendment making minor and technical changes to the income security portion of the pending bill. It includes only items of zero or negligible cost.

Among the matters included in the amendment are provisions relating to exempting certain ministers from paying past-due Social Security taxes; allowing States to develop programs to help unemployment compensation beneficiaries set up small businesses; requiring States to report the names of parents who have substantial overdue child support payments to credit bureaus; easing the so-called 20-hour rule under the JOBS Education and Training Program; and several other income security provisions that have the support of Senators on both sides of the aisle.

I ask unanimous consent that a summary description of the provisions be printed in the RECORD.

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

THE NEW HOPE PROJECT: BLUEPRINT FOR THE FUTURE

PROGRAM ORIGIN

Developed by Congress for a Working America, a non-profit organization in July, 1988.

New Hope is now administered by a 23-person board of directors with broad-based representation by business, labor, education, religion, government and persons directly affected by poverty. The board is chaired by Thomas Schrader, president and chief executive officer of Wisconsin Gas Company.

INDEPENDENCE VERSUS DEPENDENCE

New Hope tests the theory that people on welfare will choose work over welfare and unemployment if given the opportunity to work, the chance to receive a decent wage, adequate healthcare and child care.

New Hope also addresses perhaps the hardest hit population segment—the working poor by offering a competitive wage and appropriate health and child care benefits so they will not fall back into welfare dependency.

PROGRAM OBJECTIVE

To change federal and state welfare and poverty policies by demonstrating that employment and work-based income and supporting services are a better, more humane, more cost effective way to deal with poverty and joblessness than the current welfare system.

HOW NEW HOPE WORKS

New Hope will select 600 households in two Milwaukee neighborhoods, one on the north side and one on the south side.

The project will offer poor people in these neighborhoods, whether receiving public assistance or not, the opportunity to choose to work full-time.

New Hope will provide help in securing private sector jobs.

New Hope will provide help in securing community service jobs if aggressive efforts to secure conventional private sector employment do not succeed.

New Hope will provide wage supplements for full-time workers whose wages are below the official poverty line, up to 115% of poverty.

New Hope will provide health care and child care coverage to allow people to secure long-term, career oriented work.

ADMINISTRATION

New Hope will be run by a full-time director beginning in 1992.

Administrative costs will stay at 10% or less of budget.

Congress For a Working America (CFWA) will be the staffing agent for the 50-person pilot.

New Hope director will work with existing agencies such as CFWA, the Private Industry Council and other community-based organizations to assist in private sector job placement.

NEW HOPE TIMETABLE

The project will be spread over a five year period with final design in 1991, a pilot phase then full implementation in 1992, 1993, 1994 and project completion and evaluation in 1995.

RESEARCHED AND ENDORSED

The New Hope concept has undergone intense scrutiny by think tanks, politicians, experts in the field of social policy, educators, business people, community leaders and people receiving some form of government assistance.

These diverse groups have come to the conclusion that New Hope offers a unique and important alternative to welfare and unemployment.

Feasibility reviewed by a Greater Milwaukee Committee Task Force, July 1990.

A panel of seven experts in the field of social policy concluded that New Hope is "a unique intervention with the potential of identifying important approaches to poverty reduction and welfare replacement."

Eleven academic experts from the Robert M. La Follette Institute of Public Affairs found that New Hope contains a unique set of program provisions and provides a stronger work test than 60 previously tested welfare reform programs.

FUNDING NEW HOPE

The total cost of the program is $18.5 million, with the bulk of the funds needed for the implementation years, 1992-1994.

The sources of these funds will be split between the public and private sector.

Approximately $6 million of federal funds will flow through the State of Wisconsin.

The State of Wisconsin has allocated $550,000 over the 1991-93 biennium for New Hope. Release of these funds are dependent upon a matching commitment from another funding source. Additional state funds will be sought in the next biennium.

The city of Milwaukee has earmarked $500,000 toward the Milwaukee Community Service Corp. for community service jobs for New Hope.

Private funds totaling about $10 million are needed from both local and national sources.

An immediate funding need of $500,000 is required so a pilot program with 50 people can begin in the first quarter of 1992.

BENEFITS TO BUSINESS

New Hope will identify workers at a time when shortages of qualified job candidates are predicted.

New Hope could replace expensive deferred and emergency medical care with normal preventive health care, and possibly reduce medical expense paid by tax funds.

Reduce welfare support paid by tax funds as people move from complete welfare support to at least partial, then full self-sufficiency.

Reduce expense of bureaucracy to deliver public assistance due to consolidation/coordination under New Hope concept.

BENEFITS TO THE COMMUNITY

Anti-poverty concepts could reshape the structure and administration of assistance provided by the state.

Promotes the value of people and their capabilities.

Potential to improve the quality of life for hundreds of Milwaukee area residents.

Invests public dollars in developing people as productive members of the workforce.

Community service jobs will add value to Milwaukee by doing work that is not now being done.

Reduce expenses to treat urban problems caused by poverty.

Positive national attention for Milwaukee and Wisconsin due to being the model for national policy change.

Redirect dollars away from some of the current welfare and criminal justice categories toward investment in our greatest natural resource—people.

NEW HOPE PROJECT, INC. BOARD OF DIRECTORS

Thomas Schrader, New Hope chair, President & Chief Executive Officer, Wisconsin Gas Company.

Miguel Berry, Director, Milwaukee Enterprise Center-South.

Thomas Brophy, Director, Milwaukee County Health & Human Services.

Artie Brown, Member, Congress For a Working America.

Chris Crawley, Executive Director, Congress For a Working America.

Charlie Dee, Instructor, Milwaukee Area Technical College.

Dr. Howard Fuller, Superintendent, Milwaukee Public Schools.

Steve Graff, Managing Partner, Arthur Andersen & Co.

Donna Izhiman, Member, Congress For a Working America.

John MacIver, Senior Partner, Michael, Best & Friedrich.

Rt. Reverend Patrick Matolengwe, Dean of All Saints Cathedral, Interfaith Conference of Greater Milwaukee.

David Meissner, President & Chief Executive Officer, Barkin, Paulsen, Meissner & Kimball, Inc.

Ameenah Muhammed, Project Director, Women Rising—Rosalie Manor, Inc.

John Parr, District Council 48, AFSCME.

Roger Peirce, President, Super Steel Products Corp.

David Riemer, Director, Milwaukee Department of Administration.

Linda Stewart, Assistant State Director, Wisconsin Board of Vocational, Technical & Adult Education.

Six additional board seats are reserved for participants from the New Hope target neighborhoods.

PROJECT NEW HOPE AMENDMENT

Mr. KOHL. Mr. President, the amendment offered today is designed to demonstrate an alternative approach to welfare.

The experiment is called New Hope Project and is based on a simple premise: Poor persons prefer work to welfare. It hopes to test and measure whether people can avoid welfare if they are given a living wage, child care, and health care.

It assumes that there are several reasons why the poor and near-poor are underemployed. Sometimes they can't find work. Sometimes the benefits of working don't offset the costs of child care and transportation. Sometimes, working a full-time job at minimum wage is just enough to throw them off of AFDC, with no access to health care for their children.

New Hope Project is a bold experiment designed to change some of the incentives—and disincentives—in our welfare-to-work programs. When it began in April 1992, there were 50 enrollees. Early next year, the project hopes to be serving 600.

Although the project itself does not provide job training, it will help participants obtain job training if they need it. People who volunteer for the program will be offered a job and a wage subsidy if their income is below the poverty line. They will also be offered child care and health insurance.

Participants are required to conduct an 8 week private sector job search, with the help of the New Hope Project. If all else fails, they will be guaranteed a public service job.

The project has broad-based support in Milwaukee. Business, labor, education, religious, and government leaders have all joined to make this alternative to welfare work.

The amendment that I have offered to the urban aid bill will make the Federal Government an active partner in New Hope Project. It will not increase Federal expenditures. It simply allows New Hope Project to receive the Federal share of cash assistance to which title IV participants in New Hope Project would otherwise have been entitled.

There is a similar provision contained in the House-passed version of H.R. 11 and I commend my colleague Representative MOODY, for his sponsorship of that amendment. My amendment is more narrowly drafted to the New Hope Project, and it contains a strong evaluation component.

Mr. President, I urge the adoption of this amendment.

NEW HOPE DEMONSTRATION PROJECT

• Mr. KASTEN. Mr. President, the amendment before the Senate is a demonstration project which would promote welfare reform through work incentives.

In very simple terms, this project is a jobs program. The demonstration project, commonly referred to as the New Hope Project offers participants help in finding a job, health insurance, and child care.

The overall focus of the project is to help poor people get a job in the private or public sector. The project, which is administered by the New Hope Project, Inc., in Milwaukee, WI, also provides participants an opportunity of community service jobs, if they are unable to find a regular job after 8 weeks of job search.

Mr. President, eligibility for this program is clearly in the American spirit. The project uses the willingness and desire to work as the primary eligibility criteria. A participant's household income must be at or below 150 percent of poverty to enter the program. Participants are eligible for subsidies for health insurance and child care until their income reaches 200 percent of the poverty line.

Investing in people who are working is a much better use of taxpayer dollars than simply providing welfare benefits. New Hope Project is a genuine welfare reform that deserves to be tested. I hope my colleagues will join us in supporting this amendment.•

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3225) was agreed to.

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

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

AMENDMENT NO. 3226

(Purpose: To allow Wilkinson County School District, MI, to file for a refund of overpaid windfall profits tax, notwithstanding the statute of limitations)

Mr. PACKWOOD. Mr. President, I am going to, in a moment, submit an amendment on behalf of Senator COCHRAN. This relates to a school district in Wilkinson County, in the State of Mississippi.

In a nutshell what happened is this. They overpaid years ago some windfall profits taxes. They were represented by inadequate counsel. They neglected to apply for a refund to which they were entitled. No one argues they would have been entitled to it. And they were precluded by the statute of limitations.

The Internal Revenue Service sent a letter which says, "Although this decision does not seem equitable, the Service is by law precluded from approving this claim."

This amendment would allow the claim to be approved. It is $58,000 plus interest and the total is less than $100,000.

I now send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. COCHRAN, proposes an amendment numbered 3226.

Mr. PACKWOOD. 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:

**SEC. . EXTENSION OF PERIOD FOR CREDIT OR REFUND OF CERTAIN OVERPAYMENTS OF WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.**

Notwithstanding section 6511 of the Internal Revenue Code of 1986 (relating to limitations on credit or refund), the time for filing a claim for credit or refund of any overpayment of the windfall profit tax on domestic crude oil under chapter 45 of such Code (as in effect before its repeal by Public Law 100-418) by the Wilkinson County School District, in the State of Mississippi, for any period ending before January 1, 1983, shall not expire before the close of the one-year period beginning on the date of the enactment of this Act.

• Mr. COCHRAN. Mr. President, my amendment is designed to allow a small school district in Mississippi to file for a refund of overpayments of windfall profit taxes which were withheld in the early 1980's.

The Windfall Profit Tax Act of 1980 provided an exemption from the tax for qualified governmental entities.

Wilkinson County, MS, was such a qualified entity; however, because the county did not employ a tax counsel, they were unaware of this exemption. As a result, windfall profit taxes were withheld from payments to the county and were forwarded to the Internal Revenue Service.

The 1980 law provided that a taxpayer could file a claim for reimbursement of overpaid windfall profit taxes. Upon learning of this provision Wilkinson County filed a claim for a refund, but the IRS ruled that a statute of limitations had expired for refund of the 1980–82 taxes withheld. Despite Wilkinson County's assertion that they were not subject to this statute of limitations, the IRS rules that they had no authority to issue such a refund. In a letter addressed to my colleague from Mississippi, Congressman MIKE PARKER, the Internal Revenue Service's Deputy National Director of Appeals stated, "Although this decision does not seem equitable, the Service is by law precluded from [approving this claim]."

Mr. President, my amendment will remedy this problem by allowing the statute of limitations to be extended only for Wilkinson County, and only for the years prior to 1983. This amendment will cost $58,000 plus interest, if interest is awarded by the IRS, bringing the total possible cost to less than $100,000, which is a small expense for the Federal Government but a very significant amount for a small, predominately minority school district.●

Mr. BENTSEN. Mr. President, I know of no objection on this side.

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

The amendment (No. 3226) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3228

(Purpose: To clarify the value of passenger services subject to the harbor maintenance tax)

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

The PRESIDING OFFICER. The pending amendment will be set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 3228.

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

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

The amendment is as follows:

On page 1811, after line 9, insert the following:

**SEC. . HARBOR MAINTENANCE TAX ON SHIP PASSENGER FARES.**

(a) IN GENERAL.—Subparagraph (B) of section 4462(a)(5) (defining value) is amended to read as follows:

"(B) TRANSPORTATION OF PASSENGERS.—In the case of the transportation of passengers for hire, the term 'value' means the excess of—

"(i) the actual charge paid for such service or the prevailing charge paid for comparable service if no actual charge is paid, over

"(ii) the sum of—

"(I) the amount actually paid for pre- and post-cruise air or land transportation and lodging (including any separately-stated transportation or lodging taxes and the pro rata share of travel agent commissions properly allocable to such air or land transportation and lodging), and

"(II) the cost of separately-stated per-passenger taxes, fees, or charges imposed by domestic or foreign governmental entities."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation beginning on or after November 1, 1992.

Mr. BREAUX. Mr. President, I have discussed this amendment with a number of concerned Senators, who have indicated their lack of any opposition and actual support for the amendment. There is a harbor maintenance tax, a user fee that is used to collect money to repair harbors for ships to use those facilities. That harbor maintenance tax is 0.125 percent of the book value for a person making a trip on a cruise ship.

Unfortunately, customs is currently considering in the book value of that trip not just the cost of trip on the ship, but is also taxing the airplane fee to get to that port, or a train fee to get to that port, or any overnight accommodations while they are waiting for the ship to depart.

That was certainly not the intent of Congress when we passed the Harbor Maintenance Trust Fund Act. The intent was to just tax those passengers using ships out of harbors on the value of the cost of their crews, not on any other transportation or related costs that have nothing to do with the ship itself.

So, this amendment would merely clear up that ambiguity and I think reinstate the clear intent of the Congress when we passed this legislation in the first place.

I urge that it be given favorable consideration.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, I have examined the amendment. I know of no objection on this side.

Mr. PACKWOOD. None on this side, Mr. President.

Mr. BREAUX. I urge adoption of the amendment.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 3228) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

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

Mr. DOMENICI. Mr. President, I am going to send an amendment to the desk regarding accelerated death benefits. It has been modified so as to comply with the constructive suggestions of Senator METZENBAUM, and am now informed it is acceptable to the managers.

AMENDMENT NO. 3229

(Purpose: To expand the choices available to terminally ill individuals who wish to receive accelerated death benefits to improve their quality of life during their final days)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 3229.

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

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

The amendment is as follows:

On page 1778, line 20, strike the quotation mark.

On page 1778, between lines 20 and 21, insert the following new paragraph:

"(3) ASSIGNMENT OR SALE OF CONTRACT.—For purposes of this subsection—

"(A) IN GENERAL.—Any amount received by an individual from the sale or assignment to a qualified accelerated benefits corporation of a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount described in paragraph (1). The preceding sentence shall not apply to amounts for payment of cash surrender values, loans, or other benefits made by an insurer in accordance with the policy provisions.

"(B) QUALIFIED ACCELERATED BENEFITS CORPORATION.—The term 'qualified accelerated benefits corporation' means a corporation—

"(i) with respect to which the aggregate amount of money or other property received in exchange for equity in the corporation, as contributions to capital, or as paid-in surplus is at least $1,000,000;

"(ii) which is regularly engaged in purchasing or taking assignment of life insurance contracts on the lives of insureds who are terminally ill individuals;

"(iii)(I) which does business in the State in which the insured resides and in which quali-

fying legislation has been enacted (or qualifying administrative regulations have been promulgated) to govern activities described in clause (ii), and

"(II) the business practices of which in States in which no qualifying legislation has been enacted (and no qualifying administrative regulations have been promulgated) do not materially differ from its business practices in States in which such legislation has been enacted (or such regulations have been promulgated); and

"(iv) which pays an amount equal to at least 60 percent of the face value of the life insurance as consideration for the sale or assignment to it of the policy.

"(C) For purposes of subparagraph (B)(iii)—

"(i) qualifying legislation means legislation enacted by a State legislature which, either alone or in conjunction with qualifying administrative regulations—

"(I) imposes obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on the lives of insureds who are terminally ill individuals with respect to confidentiality of medical information, disclosure of alternatives to accelerated benefits contracts, disclosure of tax consequences of accelerated benefits contracts, and full disclosure to the terminally ill individual of all material terms of the accelerated benefits contract and the life insurance policy, and

"(II) in order to enforce obligations described in subclause (I), authorizes the examination of business records and affairs of qualified accelerated benefits corporations, establishes procedures for investigations and for cease and desist and other orders, and imposes penalties for noncompliance; and

"(ii) qualifying administrative regulations means regulations promulgated by a State agency which, either alone or in conjunction with the qualifying legislation, impose obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on lives of insureds who are terminally ill individuals in the areas described in clause (i) and authorize the enforcement of those obligations in the manner provided in clause (i).

"(D) TRANSITION RULE.—In the case of taxable years beginning before January 1, 1994, a corporation conducting its business substantially in accordance with the qualifying legislation enacted by any State or with qualifying administrative regulations promulgated by any State agency shall be treated as satisfying the requirements of subparagraph (C) regardless of whether the corporation conducts its business in that State."

On page 1778, line 23, after "1989" insert ", except that in the case of amounts received pursuant to a sale or assignment described in section 101(g)(3) of the Internal Revenue Code of 1986 (as added by paragraph (1)), such amendment shall only apply to amounts received after January 1, 1993".

Mr. DOMENICI. Mr. President, section 8202 of the bill includes a provision allowing insurance companies to pay tax-free accelerated life insurance benefits to individuals who are terminally ill and who have less than 1 year of precious life left.

This provision was included at the initiative of Senator BRADLEY with the cosponsorship of more than 70 other Senators.

It is a perhaps one of the best intentioned provisions in H.R. 11 because it is designed to make life insurance more useful to the terminally ill.

A recent poll of National Association of People with AIDS listed as their No. 1 concern: lack of financial resources. This concern was listed ahead of access to health care, availability of medicines, or legal assistance. This amendment is designed to help meet that No. 1 priority.

The rational for this overriding priority is easy to understand. Thirty percent of health care costs are spent during the last year of life. For HIV and AIDS patients the percentage is even higher. As health care costs have soared, many terminally ill have wanted to cash in their life insurance to help meet medical bills.

As the deaths from cancer, HIV, and AIDS increase, more and more people want to use their life insurance to pay medical bills, provide a few comforts, or fulfill a final wish.

Our Tax Code worked against all of those objectives. Under current law, life insurance proceeds are taxable if paid on an accelerated basis before death, but tax exempt if paid to beneficiaries after death. Section 8202 of the bill allows the terminally ill to access their life insurance proceeds and not incur income tax liability. The provisions of the bill are good as far as they go. But the bill leaves out many providers of this benefit—the viatical settlement companies.

The amendment broadens the language of the bill to include the company which first developed the concept of an accelerated benefit for the terminally ill, and other similar viatical settlement companies that offer this service, compassion and helping hand. The amendment I am offering is cosponsored by Senator GRAHAM and Senator DIXON.

The first company to pioneer the concept of accelerated benefits for the terminally ill and to offer this service to HIV, AIDS cancer, and other dread disease patients is based in Albuquerque, NM. They started working on ways to help the terminally ill in February 1986. Living Benefits, Inc., has been in business 4 years and have helped improve the final days of 550 terminally ill individuals.

It wasn't until recently that life insurance companies started offering accelerated benefits for the terminally ill. Not all companies provide the option. Only about 140 of the existing 2,000 life insurance companies in the United States offer any type of accelerated benefit. The companies that do sometimes specify the eligible diseases, or limit the type of insurance policy that includes an accelerated benefit to the higher priced policies. Some companies limit the benefit to 25 percent of the face amount of the policy to a maximum of $10,000, or some similar limitation.

The noninsurance companies fill a niche because they provide all terminally ill individuals the option of an accelerated, cash benefit regardless of the dread disease or the type of life insurance policy they purchased years ago.

Research is the answer to find the cures.

But today, the task is tax policy. It is far less lofty, but in a way it can help minister to the stunning grief of those touched by a terminal illness. It can help those who have leaned too long over the bedside of a dying spouse, child, or friend.

To give you an idea about how important these companies are to the terminally ill and their families I would like to read from a few of the letters:

Letter 1: When we learned that my husband had a terminal illness we were, understandably devastated by the news. I have two sons who were very close to their father and we had a happy marriage. Among many of our worries was how we would pay for his medical needs, how we would keep our youngest son in college and how we could provide a good quality of life for whatever time my husband had remaining.

Your company became our answer. The service you provided allowed us to convert our house from electric to gas heat, thus assuring that our home would be warm enough to keep my husband comfortable in the winter. It allowed us to pay off outstanding debts that I could not afford on my salary alone, kept our son in school and allowed us to pay for a Christmas that my children now remember as the "best ever" instead of a morose and sad event. It allowed us the "luxury" of making sure my husband had the best medical care.

Letter 2: Living Benefits is affording PWAs [People with AIDS] a valuable option to increase or maintain the quality of life through the financial alternative of purchasing an otherwise pre-death nonliquid asset based investment.

Letter 3: Thank you for this valuable service, having the extra money enabled Kevin to enjoy his last months without economic hardship.

Letter 4: Thank you for first and foremost giving me a buffer in the bank. It has made day-to-day life less stressful.

The amendment is carefully drafted to incorporate important safeguards contained in the model accelerated benefits statutes that some states have enacted.

These safeguards include:

That the companies are doing business in which legislation has been enacted or administrative regulations have been promulgated to govern the following safeguards;

That the patient is fully aware of the options for accelerated benefits, the tax consequences—which will be vastly improved if this amendment becomes law; that the person is of sound mind and fully understands the concept of life insurance and accelerated benefits contracts; company guarantees the confidentiality of medical information; that the company is doing business in an ethical manner; and that the person is receiving a fair and competitive cash value of the insurance policy.

When Mary Fisher, an HIV positive victim spoke at the Republican Na-

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tional Convention, she asked us to "lift the shroud of silence which has been draped over the issue of HIV and AIDS. Two hundred thousand Americans are dead or dying; a million more are infected."

This amendment will help lift the financial burden associated with many of these terminal illnesses.

From October 9–11, the AIDS quilt will be on display on the Mall. It is a living growing monument to this plague; 20,000 squares, each representing someone who died of AIDS, yet it represents less than one-seventh of the U.S. AIDS deaths.

The number of cancer victims is even larger. There are over a million new cases of cancer diagnosed and a half million deaths each year from this disease. And it has taken its toll in some families generation after generation. Other terminal diseases continue to claim their victims as well.

I hope the Senate can adopt this amendment to help the terminally ill, their families and loved ones.

There are numerous groups in this country that asked us to pass this legislation. Among those groups are the various groups in this country that have AIDS members.

This permits those with life insurance during their last year of life—they are already moving toward death—to cash out an insurance policy so that their heirs do not have to wait until after they are dead to get that money.

Essentially, it permits that kind of payment to be treated as if it were a death payment in terms of the income and estate taxes of our country. That is the reason we put it in so that about 30 companies that do this kind of business eventually will qualify. We have put some regulations on them so we have a better chance of seeing that they do not take advantage of the situation, but it is a much needed service. It will serve a lot of people well.

I am delighted it is going to be accepted.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, the amendment of the Senator from New Mexico is a matter that we had a number of moments of discussion about. We are concerned as to the protections accorded the terminally ill individual.

I am not going to say I am enthused about the amendment, because I have some reservations about the protections for that individual, but I do believe that the Senator from New Mexico has gone way out of his way to try to see to it that those protections are afforded the individuals. I know he is as much concerned about those individuals as I am, and I have no objection to the amendment.

Mr. BENTSEN. Mr. President, I went into some length in discussion with the distinguished Senator from New Mexico concerning the question of capital securability of the companies doing the service for protection of the beneficiaries, and I am satisfied on that point. I have no objection to his amendment.

Mr. DOMENICI. Mr. President, before we adopt the amendment, I thank Senator BENTSEN and his staff. They were really concerned that we do the best we could to prevent anyone being taken advantage of, and I think we have done that. The benefits for the terminally ill outweigh the risk at this point, and I thank him for that.

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

The amendment (No. 3229) was agreed to.

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

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

AMENDMENT NO. 3230

(Purpose: Clarifying separate charge restriction for reporting of real estate transactions)

Mr. BENTSEN. Mr. President, on behalf of Senator SPECTER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. SPECTER, for himself, Mr. DIXON, and Mr. WOFFORD, proposes an amendment numbered 3230.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of title VIII, insert:

**SEC. . REPORTING OF REAL ESTATE TRANSACTIONS.**

(a) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to real estate transactions closing after the date of enactment of this Act.

Mr. BENTSEN. Mr. President, this amendment clarifies that real estate reporting persons are able to include costs associated with the regulatory burden of tax information reporting within their general business costs.

It is acceptable with the manager of the bill on this side of the aisle.

Mr. PACKWOOD. Mr. President, I believe it is acceptable on this side.

Mr. SPECTER. Mr. Chairman, I am pleased to join with my distinguished colleague from Illinois, Senator DIXON, in offering this amendment clarifying section 6045 (e)(3) of the Internal Revenue Code regarding cost recovery for real estate reporting. This amendment is necessary to clarify that real estate reporting persons may recover costs associated with Federal tax reporting. It is germane to this bill because additional real estate tax-reporting requirements which are proposed under section 3006 of Senate-reported H.R. 11 will exacerbate this problem. It also, according to the Joint Committee on Taxation, is revenue neutral, having no effect on Federal fiscal year budget receipts.

Federal tax reporting is a particular concern in real estate transactions because unlike other industries where Federal tax reporting is required, charges and fees may be regulated by the States. However, Federal law now prohibits a separate charge for real estate tax reporting compliance.

Title insurance company employees, independent agents and attorneys, and escrow agents supervise and provide services for closing real estate transactions. In Pennsylvania, the person responsible for a closing is normally a title insurance company or an agent for a title insurance company. Under current law, those persons are designated as real estate reporting persons, who are required to provide information to the IRS on real estate closings. The information provided by real estate closing persons is used to check that taxpayers buying and selling real estate report their proceeds and other information correctly to the IRS. Unlike many other industries, but similar to other lines of insurance, this regulation can be very extensive, as in my State, extending to not only the rate of insurance, but to specific fees and settlement charges.

Current Federal law on real estate tax reporting is creating confusion. The law currently provides that a real estate reporting person shall not impose a separate charge for complying with the tax reporting requirement. This has created considerable confusion regarding on one hand, the title insurance industry's and others' good faith efforts to comply with strict State law and regulatory requirements,

fair disclosure to consumers, and the Federal law, and on the other hand their ability to recoup the costs of complying with Federal law.

The conflict is, I believe, peculiar to the title insurance and real estate closing industry simply because it is regulated in this manner by the States. This amendment simply clarifies that Congress did not intend to prohibit a real estate reporting person from recouping the cost of Federal tax reporting, but that recovery of this cost is allowed within the fees charges by real estate closing persons.

I am pleased the distinguished managers of the bill have agreed to accept this amendment.

Mr. DIXON. Mr. President, on behalf of my distinguished colleagues from Pennsylvania, Senators WOFFORD and SPECTER, and myself, I rise to offer an amendment relating to the information reporting provisions of the Tax Code that apply to real estate reporting persons. Real estate reporting persons—such as title insurance company employees, and independent agents and attorneys—supervise and provide services for closing real estate transactions. For example, they provide the facility at which closings take place, prepare necessary documents, such as deeds, and accept funds to pay off mortgages and issue checks through an escrow account. Section 6045(e) of the Tax Code also requires real estate reporting persons to prepare and file information reports and statements in connection with the real estate closing. The code prohibits separate charges with respect to these reporting requirements, and my amendment does not alter that provision. My amendment does, however, make clear that real estate reporting persons are able to include costs associated with the regulatory burden imposed by these reporting requirements within their general business costs. I think this is particularly appropriate in the context of H.R. 11, since this bill expands the information reporting that real estate reporting persons are required to perform in connection with closings of various real estate transactions. The amendment is effective for real estate transactions which close after December 31, 1992.

I am pleased to be able to say that this amendment has no revenue cost whatsoever. I want to thank the managers of the bill for their attention to this matter, and for the cooperation they have given me and my staff. I strongly urge the approval of this amendment. Mr. President, I ask unanimous consent that a statement by Senator WOFFORD appear at this point in the RECORD.

Mr. WOFFORD. Mr. President, I am pleased to cosponsor this amendment regarding the recovery of costs incurred in the course of complying with real estate reporting requirements. Persons closing loans are required to provide information obtained at those closings to the IRS. Such information reporting is designed to ensure that taxpayers buying and selling real estate report their proceeds from that sale and other information correctly to the IRS. The amendment clarifies that real estate reporting persons may recover costs associated with such Federal tax reporting.

The PRESIDING OFFICER. Is there further debate?

If not the question is on agreeing to the amendment.

The amendment (No. 3230) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3231

(Purpose: to amend title 31 of the United States Code, to establish a Department of the Treasury Forfeiture Fund)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3231.

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

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BENTSEN. Mr. President, I am offering an amendment to establish an asset forfeiture fund in the Department of the Treasury.

This amendment is identical to a bill approved by the Finance Committee in August. The Treasury forfeiture fund is an administration initiative. It consolidates all the seizure and forfeiture activities of the law enforcement agencies in the Treasury Department under a single roof and within one chain of command inside the Treasury Department. The fund would also operate just like the current forfeiture fund in the Justice Department and Customs Service.

When a Treasury law enforcement agency seizes an asset as a result of a drug investigation or some other activity, it may sell the assets and deposits the proceeds in the fund. Then it may use the money in the fund to pay certain expenses. For example, pay storage costs for seized goods or reimburse the costs of State and local law enforcement agencies that assist Federal law enforcement agencies.

This is a good-government amendment. It makes sense. it will increase efficiency and improve accountability.

It has been cleared by the managers on both sides.

I yield for any questions on my side.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I say to my friend from Texas, we have not seen this amendment before. I do not know whether I am for it or against it. It is a pretty thick amendment. I will give the Senator an answer within 2 minutes.

Will the Senator set the amendment aside for a moment?

Mr. BENTSEN. I ask unanimous consent to set this amendment aside.

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

Mr. METZENBAUM. I thank the Senator.

AMENDMENT NO. 3232

(Purpose: To amend the Trade Act of 1974 to remove the Union of Soviet Socialist Republics from the list of countries ineligible for designation as a beneficiary developing country)

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

This amendment is to remove the Soviet Socialist Republics from a list of countries ineligible to receive benefits under GSP.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3232.

Mr. BENTSEN. 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 1811, after line 9, insert:

Subtitle D—Trade Provisions

**SEC. 8301. TREATMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS UNDER THE GENERALIZED SYSTEM OF PREFERENCES.**

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Union of Soviet Socialist Republics".

Mr. BENTSEN. Mr. President, let me state that this amendment does not automatically grant GSP benefits to any of the newly independent states, but simply makes them eligible to be designated as beneficiaries.

This bill was approved several months ago by the Finance Committee. It implements an element of the President's Russian aid package that fell within the jurisdiction of the Finance Committee.

The amendment has been cleared by the managers on both sides, and I urge it adoption.

I ask if there is any question that might arise on my side?

I know of no objection.

Mr. DOLE. No objection.

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

The amendment (No. 3232) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. 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. 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.

AMENDMENT NO. 3233

(Purpose: To amend the Harmonized Tariff Schedule of the United States to specify that certain footwear assembled in beneficiary countries is excluded from duty-free treatment)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 3233.

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

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

The amendment is as follows:

At the end of subtitle C of title VI, insert:

**SEC. . TREATMENT OF FOOTWEAR AND LEATHER-RELATED PRODUCTS.**

(a) IN GENERAL.—U.S. Note 2 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) in paragraph (b), by inserting "footwear, leather-related products," after "apparel article,";

(2) by striking the flush sentence following subparagraph (ii); and

(3) by adding at the end thereof the following new paragraph:

"(c) As used in this note—

"(i) the term 'beneficiary country' means a country listed in general note 3(c)(v)(A); and

"(ii) the term 'leather-related products' means articles of handbags, luggage, flat goods, work gloves, and leather wearing apparel described in section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 222 of the Customs and Trade Act of 1990.

Mr. MITCHELL. Mr. President, I rise to offer an amendment that would correct a provision in the Caribbean Basin Economic Recovery Act. This amendment remedies a 1990 change to the law, a change which was clearly contrary to the expressed intent of the Senate and the basic purpose of the Caribbean Basin Initiative.

After the 1990 change, footwear imported from Caribbean nations has enjoyed duty-free status if that footwear is assembled from materials processed in the United States. The tariffs on Caribbean footwear suddenly dropped from a range of 20 to 67 percent to zero. As a result, what remains of the American footware industry will be destroyed. The industry has been already decimated by increased imports in the past 20 years. The 1990 change has caused—and will continue to cause still more factory closings and unemployment in this country.

The Caribbean Basin Initiative was originally enacted to provide certain limited and specific trade benefits to Caribbean nations. The purpose of that legislation, like all other trade preference rules, was to provide benefits subject to certain exceptions necessary to protect import-sensitive American industries. Nowhere was it ever stated or intended that there would be total disregard for American jobs and American industries in providing benefits to Caribbean nations.

When the Caribbean Basin Initiative was first enacted in 1983, footwear and other leather-related products were exempted from duty-free treatment. This exemption provided important protection to these particularly import-sensitive industries. As the 1983 House report stated:

First, while Caribbean Basin imports constitute a very small portion of the U.S. market penetration at the present time, growth of some of these products has been substantial from certain Caribbean countries in the past two years and is likely to increase further in a very short period of time with the incentive of unlimited duty free access to the U.S. market. Second, these industries, which have already been heavily impacted by increased imports, would not survive if faced with duty-free import competition from the Caribbean Basin. The relatively few jobs remaining in these industries should not be sacrificed, as they are located primarily in small towns or counties with very little manufacturing, high unemployment, and little likelihood of alternative employment opportunities in the foreseeable future. Third, adjustment measures available to these domestic industries and their workers through the Appalachian Economic Development Administration, and trade adjustment assistance programs have been largely eliminated.

When new Caribbean Basin Initiative legislation was considered in 1990, the Senate went on record to support the continued protection of the American footware industry from imported Caribbean footwear. The Senator from Oregon offered a floor amendment to reduce by 50 percent the tariffs on certain footwear imported from Caribbean nations. The Senate soundly defeated that amendment by a vote of 63 to 33.

Unfortunately, this expressed intent did not survive conference committee action. When the conferees reconciled the bills, they included a provision that permitted duty-free imports of Caribbean products made with materials from the United States. Textile, apparel, and petroleum products were exempted from this provision. But footwear and the other leather related products were not.

This was supposed to increase employment both in Caribbean nations and the United States. By encouraging Caribbean manufacturing facilities to use American-made component parts, this provision would help provide jobs in the American supplier industries. If this was the intent, then it failed. The 1990 change allows the manufacturing of component parts to occur in Caribbean nations. American workers who cut leather products and footwear components in supplier industries have lost out to workers in Caribbean nations.

In fact, this provision expanded the scope of duty-free treatment accorded products which return to the United States. Under the current law treatment of rule 807, a duty is assessed only on the value added in a foreign country when the assembled product is returned to the United States. But under the 1990 amendment, products qualify for duty-free treatment if they are processed from materials from the United States, whether or not there is any assembly production in the United States.

To be sure, this 1990 amendment has provided generous benefits to Caribbean nations. But these benefits have an enormous cost: fewer American jobs and increased unemployment in an already battered industry.

There is no major industry in the United States which has suffered more under the weight of imports than the domestic footwear manufacturing industry. Since Ronald Reagan moved into the White House in 1981, imports of footwear have tripled from 365 million pairs to almost 1.2 billion pairs in 1991. Over that period, the share of the domestic market claimed by imports has risen from 50 percent to 82 percent.

The flood of imported footwear is continually rising. In 1992, imports have climbed to almost 85 percent of the American footwear market.

Imports now claim an astounding 88 percent of the nonrubber footwear market and 76 percent of the rubber footwear market. In other words, of 100 pairs of nonrubber footwear sold in the United States, only 12 pairs are manufactured in the United States. Of every 100 pairs of rubber footwear sold in the United States, only 24 pairs are manufactured in the United States. America literally walks in the shoes of other nations.

As imports have skyrocketed, the domestic industry and American workers have suffered. Companies have gone

out of business. Scores of plants have closed their doors. Thousands of Americans have lost their jobs. In 1980, there were 144,000 workers employed in the domestic nonrubber footwear industry. Now, there are only 66,000—during this period, imports have forced nearly 80,000 American workers to the unemployment lines.

The downward spiral of the domestic footwear industry continues in the 1990's. In 1991, imported footwear increased another 5 percent. Employment shrunk by over 9,000 jobs; 28 plants were closed.

These statistics cannot adequately demonstrate the hardships endured by the domestic industry and its workers as imports have swept this country. There are now only a handful of domestic manufacturers remaining. As they struggle to hold on to their domestic operations, the large multinational importers are now establishing manufacturing facilities in the Caribbean. This will be the final blow to the American industry.

As a result of the 1990 legislative error, imported footwear from the Caribbean has started to flood into the U.S. market. Caribbean imports increased from 2.5 million pairs in 1990 to 3.1 million pairs in 1991, a 24-percent increase.

But this is only the beginning. In the first half of this year, imported rubber footwear from the Caribbean skyrocketed 407 percent. If the Caribbean production growth were to continue at this rate, imports of Caribbean footwear would exceed U.S. production by early in 1995. Although rubber footwear imports from the Caribbean Basin are only one-half of 1 percent of our market, this market share has grown fivefold in less than 2 years.

In 1990, the opponents to this footwear exemption argued that in granting duty-free status to Caribbean footwear, American jobs would not be lost. They argued that duty-free treatment of Caribbean footwear would simply move production from China to the Caribbean. This argument was wrong.

In 1991, imports of Chinese footwear increased 45 percent over the previous year. Imports of Caribbean footwear increased 24 percent. But U.S. production fell 6 percent, and 6,800 nonrubber footwear employees lost their jobs. This trend will continue.

American companies have already started to shift their operations to the Caribbean. Since the imported footwear from the Caribbean is made with low-cost labor and enters this country duty free, American companies simply cannot compete. These companies have to react in some way. The choice they face is to concede even more market share and close down still more plants in the United States or shift their operations to the Caribbean.

Maine companies are now confronted with the agonizing decision to move their plants to the Caribbean. One company, Supreme Slipper of Lewiston, ME, can only be described as a footwear success story. While the domestic industry has been fighting a losing battle against imported footwear, Supreme Slipper has been adding jobs, expanding from 200 employees in 1987 to 700 in 1991. The company has tenaciously and successfully competed in a market that is flooded with low-cost imports from the Far East.

But Caribbean footwear is now being priced at 20 to 25 percent below the domestic market price. Since Supreme Slipper cannot compete with these prices, it is now investigating the opportunities to move its facilities to the Dominican Republic, Honduras, Jamaica, or Costa Rica. The dramatic cost advantages of operating in the Caribbean basin leave the company few alternatives.

The purpose of this amendment is to correct an error that was made 2 years ago, an error that has cost—and will continue to cost—American jobs.

I urge my colleagues to support this amendment.

Mr. PACKWOOD. Mr. President, the amendment is cleared on this side.

Mr. BENTSEN. Mr. President, as manager of the legislation on this majority side, I am supportive of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3233) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3234

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senators MOYNIHAN and D'AMATO and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. D'AMATO, for himself, and Mr. MOYNIHAN, proposes an amendment numbered 3234.

Mr. PACKWOOD. 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:

The following text is added as subsection 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) and subsections (c) and (e) are renumbered subsections (d) and (f) respectively.

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES.—

"(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(ii) before importation into the United States such * * *

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small, the administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii)(I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is * * *

Mr. PACKWOOD. Mr. President, this is an amendment involving circumvention of antidumping orders. This is a good amendment and it ought to be adopted. I believe it has been cleared on both sides.

Mr. BRADLEY. Mr. President, I realize that the hour is getting late, and that the Senate is now accepting a series of amendments in an attempt to finish the tax bill, but I feel compelled to protest the hasty inclusion of the anticircumvention amendment in the tax bill.

This is a private relief bill. It is essentially a measure designed for one company, Smith-Corona, aimed at its chief competitor, Brother Industries. These two companies have been locked in something of a Hatfield and McCoy dispute for years. Brother, a Japanese-owned company, assembles typewriters in Tennessee. Smith-Corona, a British-owned company, imports typewriters from Singapore. This bill is before us because Smith-Corona has recently announced the closure of its last remaining plant in the United States. This is unfortunate for the employees of Smith-Corona who will lose their jobs. But the effect of this bill will not be to save the jobs of Smith-Corona workers. Rather it is more likely to penalize Brother Industries and its customers.

Although the measure is designed for Smith-Corona, the bill has broader implications. The law could well be applied to other cases in which foreign companies under antidumping orders have moved production to the United States. This is why the measure is opposed by a wide spectrum of industries which must rely on imported components to compete in the international marketplace. Once again, in the name of helping one business in competitive trouble, we are raising costs to other businesses and to consumers.

We may well need to modify our antidumping laws. Our current laws were designed for a world in which products were made in one country and sold at arms length to another. They may not make sense any more in a world where products are put together from components made all around the globe, in which it is often difficult to tell what is an American product and what is not. This is a very complex matter, however, and one we should not rush into. We have held no hearings on this. There has been no consideration of the real implications of this legislation. If we are going to address the problem of circumvention, we should do so in a considered and thoughtful manner, not in this scattershot approach.

Passage of this amendment is by no means the end of the debate on anticircumvention. I trust that this matter will be carefully addressed when the House and Senate conferees meet to consider the tax bill.

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

The amendment (No. 3234) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I do not want to impede progress, and I want to assure the managers of the bill that at any moment when they get ready to move something, I am going to sit down and put my remarks in the RECORD. I want to assure the managers of this. I would like to proceed for a few moments, Mr. President, and talk about a very important part of this legislation that some may have overlooked.

I want to first commend Chairman BENTSEN and the members of the Finance Committee for his and their considerable efforts in crafting a tax bill that, despite a climate of very considerable revenue constraints and competing political agendas, this bill does address many of our country's economic problems. At the same time, Mr. President, we have received almost unanimous bipartisan support in the Finance Committee for H.R. 11.

I would like to mention one particular part of H.R. 11 that has not received a lot of attention. This is the taxpayer bill of rights 2. Sometimes we refer to it as T2.

Mr. President, T2 is the culmination of the dedicated efforts of many who have fought for the average American taxpayer. These considerable efforts span many years when these issues were actually unpopular to bring up, even looked down upon, because many in Washington felt the subject was not worthy of serious consideration.

After all, there had never been a taxpayer bill of rights that had been introduced and ultimately passed. There had never been, up until 1988, a measure passed by the U.S. Congress that solely dealt with the rights of the American taxpayer.

Mr. President, I can assure both the proponents and opponents of taxpayers' rights legislation, that this climate of not being taken seriously has radically changed.

One illustration of this point is on February 26, 1987, when I introduced Senate No. 604, what was to ultimately become the first taxpayer bill of rights ever passed by any Congress, I was joined at that time by two distinguished colleagues and very good friends. One was Senator GRASSLEY of Iowa and also Senator REID of Nevada.

Senator REID, I might add, was a brand new Member of the Senate and his first speech on the Senate floor, given actually right in the corner of the Senate Chamber, was related to this particular issue. Senator GRASSLEY and I had worked a long time on this concept. I might add that Senator LEVIN of Michigan and also Senator BAUCUS of Montana, in the early 1980's, had worked diligently on the concepts of giving more rights to the average American taxpayer. For their help, I want to thank them very much.

In comparison, within hours of the introduction of T2 this year in February, we were greeted by some 40 cosponsors of our colleagues who joined us on the first day of introduction of the taxpayer bill of rights 2.

This overwhelming turnaround of recognition and support lent strength and resolve to the taxpayers' rights legislation. We are proud to report today that 53 of our colleagues in the U.S. Senate have now joined us in cosponsoring taxpayer bill of rights 2 which is included in H.R. 11.

Mr. President, the taxpayer bill of rights passed in 1988 was the first, as I have said, and only comprehensive piece of legislation in the history of America which dealt exclusively with the rights of the American taxpayer. Some of those rights that we dealt with in that legislation were the right of the taxpayer to be told his rights, the right of the taxpayer to rely on written advice of the IRS, the right of the taxpayer to receive a notice from the IRS that described what the taxpayer is being charged with, the right of the taxpayer to recover administrative costs if IRS action is unwarranted, and, Mr. President, the right of the taxpayer to representation.

One of the key facets of the taxpayer bill of rights 1, Mr. President, was we finally did away with the bounty hunter game that the IRS played. In other words, before taxpayer bill of rights 1 passed Congress, and was signed into law by the President, the Internal Revenue Service made a regular practice of promoting or demoting their collection agents based solely on how much they collected that month or that year. Mr. President, this was the bounty hunter game the IRS played against the American taxpayers, and it finally was done away with once and for all by taxpayer bill of rights 1.

These fundamental changes, commonsense provisions, were codified in the first taxpayer bill of rights. The battle for their codification was hard fought. It was against the Internal Revenue Service and the Department of Treasury, but their ultimate enactment was a giant first step for the American taxpayer.

The time has now come to more fully develop and expand those rights.

Those newly created rights are embodied in H.R. 11. The taxpayer bill of rights 2 takes the next step toward providing the proper balance between the rights of the taxpayer and the authority and obligations of the tax collector.

T2 sends a strong message to the IRS that it must treat taxpayers as cus-

tomers and not as deadbeats. T2 will help the IRS achieve this perspective by requiring new standards of accuracy and timeliness in providing taxpayer service. Taxpayers should not be required to pay the price for IRS failures in those areas, and T2 provides the mechanisms to ensure that taxpayers do not suffer because of IRS mistakes or misdeeds.

Mr. President, the taxpayer bill of rights 2 contains 27 major provisions to help protect the future rights of the American taxpayer, those taxpayers who do not necessarily have an attorney or a CPA to guide them in their tax concerns and in their tax preparation. Chief among these changes are, No. 1, the restructuring of the Taxpayer Advocate's Office and the expansion of the advocate's power to make it a more independent and effective advocate for the American taxpayer.

Second, the expansion of the rights of the taxpayer in those instances when the taxpayer has the opportunity to recover administrative costs such as attorney's fees and accounting fees or out-of-pocket costs.

Third, expansion of the circumstances when the taxpayer may have interest abated.

Fourth, prohibiting the IRS and the Treasury Department from issuing retroactive regulations.

Mr. President, let me comment briefly on that provision to prohibit the IRS from issuing retroactive regulations.

At the outset, I must state that I did not include this provision merely because of my own distaste for retroactive regulations. But many business groups, small and large, support this provision which is now embodied in H.R. 11 under the taxpayer bill of rights legislation. Many consumer groups support this provision and many taxpayers' representatives support this provision, also.

If I might, Mr. President, I would like to name just a few of those groups which support the outlawing of the retroactive powers of the Internal Revenue Service that we must limit. Those supporting our proposal: National Federation of Independent Businesses, Small Business Legislative Council, National Small Business United, National Association of Private Enterprises, National Taxpayers Union, U.S. Chamber of Commerce, Tax Executives Institute, National Association of Enrolled Agents, National Society of Public Accountants. These are just a few of the organizations that support us in our efforts to eliminate the power from the IRS to impose retroactive regulations.

Mr. President, we might ask who does oppose this provision on retroactivity? Well, one, the IRS opposes it, and the Treasury Department also opposes it. They opposed the taxpayer bill of rights 1. These bureaucracies which today write these volumes of regulations that change midstream the rules imposed on the American taxpayer, we think, need to be checked and reined in.

Sadly, during the 1980's, these administrative agencies made it a common practice, not an exception, but they have made it a common practice to issue what are known as temporary regulations which, at the unfettered discretion of the IRS, may be made retroactive. In issuing these regulations, Mr. President, no hearings are held, no public comment is solicited.

Mr. President, this practice must stop. There has been an abuse of the use of promulgating and implementing retroactive regulations. Not only is it unfair, it places an undue burden on the American taxpayer.

Mr. President, we have opened our doors to the IRS to discuss those occasions when retroactive regulations may sometimes be appropriate. We have worked with an open mind to address those objections, and we have worked with their suggestions. For example, the provision allowing the IRS to issue retroactive regulations to prevent taxpayer abuse. In all, we have included six reasonable exceptions to the general rule that the IRS may not issue retroactive regulations.

The IRS is requesting no more exceptions, Mr. President, but the IRS will still not support this provision. So why does the IRS still object?

Mr. President, the passage of this bill will remove one of the IRS' most powerful tools. The IRS need never write regulations to intimidate the taxpayer. One person at the IRS only needs to threaten that they could be written and the chilling effect has already been achieved.

Mr. President, in conclusion, we think that this atmosphere creates an unhealthy relationship between the tax collector and the taxpayer. It is time we level the playing field, and it is time we took this stifling, awesome power and removed it once and for all from the Internal Revenue Service.

Mr. President, I want to thank all of my colleagues in the Senate, and I want to thank especially those colleagues who have been involved with this fight for a very long period of time, who are making it possible once again for the Senate to go on record, when we support H.R. 11, that we are today, once again, recognizing the rights of the average American taxpayer in his and her relationship with the tax collector.

Mr. President, the taxpayers bill of rights 2, we hope, will be kept in H.R. 11. We hope ultimately it will be on the President's desk and that he, hopefully, in his good wisdom, will sign into the law H.R. 11 which includes taxpayers bill of rights 2.

Mr. President, I thank the Chair. I thank the managers. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative proceeded to call the roll.

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

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

AMENDMENT NO. 3235

(Purpose: Miscellaneous administrative provisions)

AMENDMENT NO. 3236

(Purpose: To provide waivers of certain low-income housing credit mortgage revenue bond requirements)

AMENDMENT NO. 3237

(Purpose: Indian enterprise zones)

Mr. CHAFEE. Mr. President, I send to the desk the following amendments and ask that they be considered en bloc:

First, an amendment on behalf of Senator PACKWOOD dealing with what might be termed Treasury good government proposals along with a proposal regarding the use of charities mailing list;

Second, a proposal by Senators BREAUX, GRAHAM, MACK, JOHNSTON, INOUYE, and AKAKA, providing for changes to the low income housing tax credit, regarding victims of disasters; and

Finally, a proposal by Senators MCCAIN, INOUYE, and DOMENICI regarding Indian enterprise zones.

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

Without objection, the pending amendment is set aside.

Without objection, the clerk will state the amendments by number.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes amendments, en bloc, numbered 3235, 3236, and 3237.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 3235

On page 1452, between lines 6 and 7, insert:

**PART V—OTHER PROVISIONS**

**SEC. 4841. EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.**

(a) 3-YEAR EXTENSION.—

(1) IN GENERAL.—Subsection (c) of section 7608 (relating to undercover operations) is amended by adding at the end thereof the following new paragraph:

"(6) TERMINATION.—The provisions of this subsection shall cease to apply on and after September 1, 1995; and all amounts expended pursuant to this subsection shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before such date."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1992.

(b) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and general use of the proceeds from the operation,

"(III) a description of the operation including the potential violation being investigated, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

**SEC. 4842. DISCLOSURE OF RETURNS ON CASH TRANSACTIONS.**

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, for appropriate law enforcement purposes prescribed by regulations, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i) or (8)" and inserting "(i)(3)(B)(i)", and

(C) by striking "or (12)" and inserting "(12), or (13)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (13)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 4843. ALTERNATIVE METHODS OF VERIFYING RETURNS.**

(a) IN GENERAL.—Part IV of subchapter A of chapter 61 is amended by adding at the end the following new section:

**"SEC. 6066. AUTHORITY TO PRESCRIBE ALTERNATIVE METHODS OF VERIFYING RETURNS, ETC.**

"(a) AUTHORITY.—The Secretary may, on a trial basis, provide for methods (other than signing) for verifying returns, declarations, statements, or other documents required to be made under the internal revenue laws and regulations. Such authority shall apply during calendar years 1993, 1994, 1995, 1996 and 1997.

"(b) TREATMENT OF ALTERNATIVE METHODS.—Any document verified under any method adopted under subsection (a) shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(c) REPORT.—The Secretary shall, no later than December 31, 1995, report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of any trial conducted under subsection (a)."

(b) REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall study each trial conducted under section 6066 of the Internal Revenue Code of 1986 (as added by subsection (a)) and report to the Congress the results of such study not later than December 31, 1995. Such report shall include recommendations as to whether, and in what form, the authority under such section should be continued.

(c) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6066. Authority to prescribe alternative methods of verifying returns, etc."

**SEC. 4844. MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES NO LONGER EXCLUDED FROM EARNED INCOME CREDIT, ETC.**

(a) IN GENERAL.—Subparagraph (E) of section 32(c)(3) (defining qualified child) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end thereof the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1992.

**SEC. 4845. TAX TREATMENT OF CERTAIN COMBAT PAY.**

(a) MONTHLY EXCLUSION OF COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Section 112(b) is amended by striking "$500" and inserting "the applicable amount".

(2) APPLICABLE AMOUNT.—Section 112(c) is amended by adding at the end the following new paragraph:

"(5) APPLICABLE AMOUNT.—

"(A) IN GENERAL.—The term 'applicable amount' means $2,000.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 1994, the $2,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(i) $2,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied for purposes of this clause by substituting 'calendar year 1993' for 'calendar year 1989'."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to service in a combat zone after December 31, 1993.

(b) EXTENSION OF SPECIAL TAX TREATMENT FOR PRISONERS OF WAR AND MISSING IN ACTION OF PERSIAN GULF CONFLICT.—

(1) IN GENERAL.—Paragraph (1) of section 112(d), as amended by subsection (c)(2)(B), is amended by inserting "or the Persian Gulf conflict" after "Vietnam conflict".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 112(d) is amended by adding at the end the following new sentence: "For purposes of this subsection, an individual is in missing status as a result of the Persian Gulf conflict if, immediately before such status began, the individual was performing service in the combat zone designated by Executive Order 12744 during the period of combatant activities, or the individual was performing service in Southwest Asia and was entitled to special pay for hostile fire or imminent danger under section 310 of title 37, of the United States Code by reason of being in direct support of military operations in such combat zone during such period."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(c) CLASSIFICATION OF VIETNAM SERVICE.—

(1) IN GENERAL.—Section 112(c)(3) is amended by inserting ", and May 7, 1975 shall be

considered the date of termination of combatant activities in the combat zone designated in Executive Order 11216" after "Executive Order 10195".

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 112(d)(3) is amended by striking ", and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

(B) Paragraphs (1) and (2) of section 112(d) are each amended by striking "during the Vietnam conflict as a result of such conflict" and inserting "as a result of the Vietnam conflict".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, except that in the case of the Persian Gulf conflict, the amendment made by paragraph (2)(B) shall apply on and after January 1, 1991.

At the end of title VIII of the Committee amendment, insert:

**SEC. . UNRELATED BUSINESS INCOME TAX TREATMENT OF MAILING LISTS.**

(a) IN GENERAL.—Section 513 (defining unrelated trade or business) is amended by adding at the end the following new subsection:

"(i) EXCHANGES AND RENTALS OF MEMBER LISTS.—

"(1) IN GENERAL.—In the case of an organization to which this subsection applies for any taxable year, the term 'unrelated trade or business' does not include any trade or business which consists of—

"(A) exchanging names and addresses of donors to (or members of) such organization with any other person, or

"(B) renting such names and addresses to any other person, but only if the aggregate income from such rental for the taxable year does not exceed 10 percent of the organization's gross revenue for the taxable year.

"(2) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), and

"(B) any organization described in section 501(c)(4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 513(h) is amended by striking "include—" and all that follows and inserting "include activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions."

(2) The subsection heading for section 513(h) is amended by striking "AND EXCHANGES AND RENTALS OF MEMBER LISTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to exchanges and rentals of member lists before, on, or after the date of the enactment of this Act.

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AMENDMENT NO. 3236

At the end of the Committee Substitute add the following new section:

**SEC. . APPLICATION OF LOW-INCOME HOUSING CREDITS AND MORTGAGE REVENUE BONDS TO NATURAL DISASTER AREAS.**

(a) LOW-INCOME HOUSING CREDITS.—

(1) SPECIAL RULES IN THE EVENT OF A NATURAL DISASTER—

(A) WAIVER OF 24-MONTH COMPLETION REQUIREMENT.—Section 42(h)(1)(E) (relating to exception where 10 percent of cost incurred) is amended by adding at the end the following new clause:

"(iii) WAIVER IN CASE OF NATURAL DISASTER.—In the case of any qualified building located in a natural disaster area with respect to which an allocation is made before the occurrence of the natural disaster, the Secretary may extend the period described in clause (i) to not later than the close of the fourth calendar year following the calendar year in which the allocation is made."

(B) WAIVER OF WRITTEN INCOME VERIFICATION REQUIREMENT.—Section 42(l) (relating to certification and other reports to Secretary) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR NATURAL DISASTER AREAS.—

"(A) IN GENERAL.—With respect to any occupant of a low-income unit in any qualified low-income building located in a natural disaster area or any such occupant in any other qualified low-income building who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirements of paragraphs (1) and (2) regarding occupant income information until such information is reasonably obtainable.

"(B) DISCOVERY OF INELIGIBILITY.—If upon receipt of such information the income of any occupant of a low-income unit in the building is determined to exceed the income limitation under subsection (g), such unit shall continue to be treated as a low-income unit if no subsequently available residential rental unit in the building is occupied by a new resident whose income exceeds such income limitation and such occupant vacates the unit upon the later of the lease termination or 30 days after receipt of such information by the Secretary."

(C) WAIVER OF TENANT INCOME LIMITATIONS.—Section 42(g)(1) (defining qualified low-income housing project) is amended by adding at the end the following new sentence: "With respect to any tenant occupying a unit in a qualified low-income housing project located in a natural disaster area who relocates to any other unit of a qualified low-income housing project, the Secretary may waive the income limitation of subparagraph (A) or (B) if the income of such tenant does not exceed 140 percent of such income limitation."

(D) WAIVER OF 6-MONTH RESIDENCE REQUIREMENT.—Section 42(1)(3)(B) (relating to exceptions to definition of low-income unit) is amended by adding at the end the following new clause:

"(v) WAIVER OF TRANSIENT RESIDENCE RULE IN CASE OF NATURAL DISASTER.—With respect to any unit in a building located in a natural disaster area or any unit occupied by individuals who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirement of clause (i) and allow the use of such unit on a transient basis."

(E) WAIVER ON 10-YEAR RULE FOR EXISTING BUILDINGS.—Section 42(d)(2)(D) (relating to special rules for subparagraph (B)) is amended by adding at the end the following new clause:

"(iv) WAIVER IN CASE OF NATURAL DISASTER.—The Secretary may waive the requirement of subparagraph (B)(ii) with respect to any building located in a natural disaster area."

(F) WAIVER OF THE NATIONAL POOL ALLOCATION.—Section 42(h)(3)(D)(iii) (relating to formula for allocation of unused housing credit carryovers among qualified States) is amended by inserting before the last sentence the following new sentence: "The Secretary may modify the formula described in the preceding sentence for any calendar year with respect to the allocation to any qualified State in which is located a natural disaster area to increase such allocation to take into account the effects of such natural disaster."

(G) NATURAL DISASTER AREA DEFINED.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) NATURAL DISASTER AREA.—The term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 1992.

(b) MORTGAGE REVENUE BONDS.—

(1) WAIVER OF DOLLAR LIMITATION FOR HOME IMPROVEMENT LOANS FOR RESIDENCES IN NATURAL DISASTER AREAS.—Section 143(k)(4) (defining qualified home improvement loan) is amended by adding at the end the following new flush sentence: "The $15,000 limitation specified in the preceding sentence shall not apply to any loan for residences located in a natural disaster area. For purposes of the preceding sentence, the term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to financing provided on or after June 30, 1992, and before January 1, 1994.

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AMENDMENT NO. 3237

On page 1811, after line 9, insert:

**Subtitle D—Indian Employment and Investment**

**SEC. 8221. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.**

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

| "In the case of qualified Indian reservation property which is: | The Indian reservation percentage is: |
|---|---|
| Reservation personal property ..... | 10 |
| New reservation construction property. | 15 |
| Reservation infrastructure investment. | 15 |

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; Indian Reservation Credit.**"

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy Credit; reforestation credit; Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

**SEC. 8222. INDIAN EMPLOYMENT CREDIT.**

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding after paragraph (8) the following new paragraph:

"(9) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

**"SEC. 45. INDIAN EMPLOYMENT CREDIT.**

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the lesser of —

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year; or

"(2) the credit limitation amount determined under subsection (e).

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by

an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after July 1, 1992.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55."

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT DEFINED.—The credit limitation for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred during calendar year 1991 with respect to employees whose wages (paid or incurred by the employer) during 1991 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1992.

**SEC. 8223. COORDINATION WITH ENTERPRISE ZONES.**

Notwithstanding the provisions of subchapter U of chapter 1 of the Internal Revenue Code of 1986, no Indian reservation enterprise zones shall be designated, and no area within any Indian reservation shall be designated as a tax enterprise zone.

Mr. CHAFEE. Mr. President, as I mentioned these will be considered en bloc.

The Treasury Department has several good government proposals they would like to add in the bill. That is the first amendment.

The second is dealing with low-income tax credits regarding the victims of disasters.

And the third is Indian enterprise zones.

Mr. MCCAIN. Mr. President, I express my personal thanks to Chairman BENTSEN, Senator PACKWOOD, and the mem-

bers of the Finance Committee for giving serious consideration to the concerns of Indian tribes. The committee bill as reported to the Senate designated 2 Indian enterprise zones out of the 25 zones created under the bill. Likewise, the modification to H.R. 11, which increases the overall level of enterprise zones to 125, sets aside 10 Indian enterprise zones.

I want to make it clear that the amendment that Senator INOUYE and I are offering today is not intended to diminish the action taken by the Committee on Finance or the sponsors of the modification to H.R. 11. However, I strongly believe, and the distinguished chairman of the Select Committee on Indian Affairs joins me in stating, that as a Nation, we can and must do more to alleviate the high rates of poverty and unemployment existing on Indian reservations today.

The amendment that Senator INOUYE and I are offering today would exchange the 10 Indian enterprise zones called for under the committee substitute for an investment tax credit and an employment tax credit which are specifically targeted to all Indian tribes.

The purpose of the McCain-Inouye amendment is to provide a program of investment and employment incentives that can attract private industry and capital, expand existing industry, and make the private sector a permanent source of economic development on Indian reservations.

The employment credit provides for a 10-percent credit to the employer based on the qualified wages and qualified health insurance costs paid to an Indian. As an added incentive, a significantly higher employment credit of 30 percent is offered to reservation employers having an Indian work force of at least 85 percent. The amendment is limited to those employees who do not receive wages in excess of $30,000. The credit, which focuses on job creation, would be allowed only for the first 7 years of an Indian's employment.

The amendment also provides for an investment tax credit. This credit is geared specifically to reservations where Indian unemployment levels are unconscionable—the credit being limited in its applicability to businesses locating on Indian reservations where the unemployment rate exceeds the national average by at least 300 percent.

Mr. President, as the distinguished chairman of the Finance Committee will recall, the amendment being offered today is a modified version of McCain-Inouye amendment that was offered to H.R. 4210, the so-called national economic growth package. At that time, the chairman objected to the amendment on the basis that no revenue estimate was available so that the Members of this body could have some idea as to how much the amendment was estimated to cost. As a result, my amendment was defeated because it violated section 311(a) of the Congressional Budget Act.

Since that time, and with Chairman BENTSEN's assistance, a revenue estimate was obtained from the Joint Committee on Taxation on S. 2254 as introduced and as amended. As a result, the McCain-Inouye amendment that is being offered today not only takes into account the need to minimize the budgetary impact, it also addresses the policy concerns that Senator INOUYE and I heard expressed by some of my colleagues on our earlier amendment.

Mr. President, I want to take a moment to highlight for the benefit of my colleagues several important provisions that are included in this amendment. The McCain-Inouye amendment includes:

First, antigaming restrictions, which would prevent both the investment and employment credits from being used with respect to the development and/or operation of gaming establishments on Indian reservations.

Second, a restriction on the employment credit to new hires only, thereby emphasizing the bill's intent to create new jobs—or to expand existing businesses—on reservations.

Third, an antichurning amendment to the employer credit provision, to avoid creating an incentive for an employer to discharge current employees and replace them with new or rehired employees after enactment of the bill; and

Fourth, an allowance of one-half of the investment tax credit for qualifying investments on reservations where employment exceeds 150 percent but does not exceed 300 percent of the national unemployment rate, thereby recognizing serious Indian unemployment rates which do not rise to the 300 percent level covered by the general rule.

I believe these changes make this a stronger amendment. More importantly, unlike the modified committee bill which sets aside only 10 Indian enterprise zones, the McCain-Inouye amendment would be applicable to virtually all Indian tribes.

Put another way, the McCain-Inouye amendment provides the opportunity to stimulate the development of viable economies on Indian reservations in the States of: Alabama, Alaska, Arizona, California, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, Maine, Massachusetts, Michigan, Minnesota, Rhode Island, South Dakota, Texas, Utah, Washington, Wisconsin, North Dakota, Oklahoma, Oregon, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Louisiana, and Wyoming.

For many of the Indian tribes in the States that I just named, the current national unemployment rate of 7.7 percent would be a godsend. As the distinguished chairman of the Select Committee on Indian Affairs, Senator INOUYE, has stated on another occasion:

> The unemployment rate of the majority of Indian reservations is simply incomprehensible to the average American. During the heights of the Great Depression in the 1930's, unemployment averaged 25 to 30 percent. In 1989 the average unemployment rate in Indian country was 52 percent.

It is simply unconscionable for the Congress to allow such socioeconomic conditions to fester within the borders of this Nation. The McCain-Inouye amendment is necessary to ensure that all native Americans—perhaps the most neglected and misunderstood segment of our society—are fully included as we reach out to address the issues of poverty and unemployment in this country. Indian tribal governments—more than any other unit of government within our constitutional system—are deeply affected by the decisions we make here in the Congress.

I would remind my colleagues that under our Constitution, the Congress has the ultimate authority for Federal Indian policy. For the better part of two centuries, the Congress so poorly exercised that authority that Federal Indian policy became infamous for its shortsightedness, inconsistency, and disruptive consequences.

The reason for this failure, I believe, is that the Federal Government has tried to dictate and control the development of Indian reservations economies. Government control does not work. Instead, the real economic impact of direct Federal spending has been limited to the planning and other jobs connected to the Federal spending itself. This, of course, disappears once the Federal spending is gone. No long-term viable economy results. Certainly not one that can be self-sustaining.

Let me also point out, particularly to the Senators from the 30 reservation States that I noted a moment ago, that it should come as no surprise that as a result of our failure to adequately support the development of viable Indian reservation economies, that Indian tribes have turned to other revenue-generating activities such as gambling and the consideration of proposals to locate commercial waste facilities on their lands.

I ask this body: What other choices have we given to native Americans? What does it say about us as a nation when the only choices for revenue-generating activities on Indian lands comes down to gambling or garbage?

What does it say about us as a nation when the only choices for economic activity on Indian lands run the risk of infiltration by organized crime, or that unscrupulous parties can exploit Indian lands in the apparent belief that they can degrade the environment without regard to established environmental standards?

I challenge those Members who say they are concerned about the proliferation of Indian gaming to join Senator INOUYE and me in supporting our amendment.

I challenge those Members who say they are concerned about the potential for the introduction of environmentally unsound waste facilities on Indian lands to join Senator INOUYE and me in supporting our amendment.

As I mentioned a moment ago, the Congress has the ultimate authority for Federal Indian policy. We have the opportunity today to exercise that solemn responsibility in a manner that shows we truly care about native American communities.

We have an opportunity today to take a step to eliminate poverty on Indian reservations, to reduce welfare dependency, and to bring a renewal of the human spirit into the lives of Indian people that have been tragically scarred by generations of poverty and unemployment.

I've been working with Indian tribal governments for 10 years, and during that time one of the fundamental lessons I've learned is that the policies that have been effective and have produced meaningful change are those policies that have been closely coordinated with Indian tribal governments.

The McCain-Inouye amendment meets the threshold test of tribal consultation. In this instances, our amendment is a result of efforts undertaken by the Navajo Nation to recommend Federal tax incentives which would provide Indian tribes with an additional economic development tool to aid them in strengthening Indian reservation economies. The legislation also is strongly supported by the National Congress of American Indians.

Unfortunately, the same degree of support cannot be said of the committee amendment. If the 10 Indian enterprise zones remain in this bill, the majority of Indian tribes realize that they have absolutely no chance of obtaining zone status. Moreover, they know in their hearts that unless, and God forbid, another urban riot occurs, there is little hope that additional Federal assistance will be forthcoming to meet their needs.

If the 10 Indian enterprise zones remain in this bill, what do we tell the other 504 Indian tribes and Alaska Native villages in this country. Do we tell them to hold on for 5 or 10 more years?

I agree with Secretary Jack Kemp, who said:

> Do we have to demonstrate that * * * economic independence is better than government dependence; that a paycheck is better than a welfare check * * *?

Native Americans are tired of waiting. Ironically, the socioeconomic conditions which the Nation found so appalling in Los Angeles are similar to, and in some cases worse, on Indian reservations. If we continue to ignore the extreme poverty and deprivation on Indian reservations, we will be effectively banishing another generation of Indian people to welfare dependency.

Let me repeat: We will be effectively banishing another generation of Indian people to welfare dependency. I do not make that statement lightly. I make that statement because the history of this Nation is replete with the devastating results of our ignorance and lack of compassion of the needs of native Americans. Today, we can begin another chapter in our Nation's treatment of native Americans.

Listen to the eloquent but frustrating words of a Hopi mother who is fighting to keep hope alive in her children and appealing to us for action:

> MAY 13, 1992.
>
> DEAR SENATOR MCCAIN: I am writing to you in anger and frustration! I realize that you will never read this letter but just putting down the words might make me feel better. When are you people going to do something about jobs for our people?
>
> We are a family of Hopi Indians who have never been on welfare and went to college with much sacrifice on the part of our families because we believed what your culture teaches: "work hard, don't depend on the government and pull yourselves up by your own bootstraps." We have also instilled this in our children. Our sons have now completed school—one with an associate in Computer Electronics and another with a degree in Criminal Justice—and have tried to enter the workforce with their skills only to find no opportunities for them! They cannot even collect unemployment because they have been going to school. We do not mind supporting them and their families while they continue to look for employment but their frustration and discouragement is hard to take! Those of you in power will never know the feelings of a parent to see your grown children's hopes dashed day after day. How long can the human spirit take defeat before turning bitter and hostile? Is it any wonder that people are rioting in L.A. and other cities? Phoenix and other Southwestern Cities will also find themselves in the same situation unless you people remedy this recession.
>
> Wake up! Mr. Congressman, and put your money where your mouth is—give us jobs!
>
> A frustrated mother,
>
> ALFREDA SECAKUJU.

Over the long and tragic course of America's treatment of them, Indian leaders have persistently urged the Federal Government to work with them to arrive at sensible solutions to their problems. In 1961, at a meeting in Chicago of over 400 tribal leaders, that request was eloquently renewed in this urgent appeal:

> What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

In sum, Mr. President, we have broken nearly every promise we have made to the Indian people. Though I abhor its occurrence, I am not astonished that frustration occasionally erupts into violence in Indian country. What I do find astonishing is the depth of the enduring devotion of Indian people to this country. Nowhere in America is a love of country more in evidence than among Indian communities. As a percentage of their population, no other segment of our society has served in our Armed Forces in such great numbers. Their unsurpassed dedication has survived the indifference of their countrymen. For the most part, the country has ignored their outstanding contributions to our national defense.

Mr. President, the time for action is now. As the Senate considers this amendment, I urge my colleagues to take to heart the following words of Peterson Zah, president of the Navajo Nation:

> Indeed, helping the American Indians to help themselves is neither a Democratic issue nor a Republican issue; it's not a conservative policy or a liberal policy; it's not even a "special interest" issue. Rather, it is a "human" issue that must, and deserves to be, addressed from a national perspective on a bipartisan basis, and with a real sense of urgency warranted by the deplorable conditions existing in Indian country—conditions which truly are a national disgrace.

Mr. President, the consistent plea of Indian people through the years is a simple one: that the nature of their situation be recognized and acted upon. We have the opportunity to respond today. I urge my colleagues to pass the McCain-Inouye amendment.

Mr. DOMENICI. Mr. President, as now modified, H.R. 11 includes 10 Indian reservations eligible to compete for the benefits of enterprise zones as specified in this legislation. While these benefits are generous and would be workable in many cities and towns in America, the special economic problems on Indian reservations and our special government-to-government relationship with Indians, mandate a different approach.

I have sponsored two Indian Economic Summits. The first was held in July 1987, on the Navajo Reservation. We carefully and fully examined the barriers of Navajo, New Mexico, Arizona, and Federal law and customs to attracting new business enterprises to the Navajo Nation.

The second summit was the Pueblo-Apache Economic Summit held at Santo Domingo in May 1989. We reached similar conclusions. Rather than try and tackle the myriad of tribal government, State government, and Federal Government disincentives to development, we concluded that a simple and positive approach is needed.

For example, land leases at a pueblo or on the Navajo Nation involve layers of approvals—over 50 on the Navajo Nation. Any business willing to complete such a maze of complicated and often political processes should be entitled to some major offsetting incentive to do so.

I have concluded that the 10 enterprise zones set aside for Indian tribes in H.R. 11 would have minimal impact

on the pueblos and tribes in New Mexico. There are 19 pueblos in New Mexico, from Taos in the north, down the Rio Grande to San Juan, Santa Clara, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta, to name a few. In the western part of New Mexico, the famous Zuni, Acoma, and Launa Pueblos have tried for years with varying degrees of success to attract more jobs to their reservations.

About a third of the largest Indian tribes in America, the Navajo Nation is in western New Mexico. There are also two Apache tribes, the Jicarilla in the north and the Mescalero in south-central New Mexico. I believe, Mr. President, that this short enumeration of about half of the 22 Indian tribes in New Mexico begins to bring to light the problem with allowing only 10 enterprise zones in the entire country to serve about 500 tribes and Alaska Native villages.

Not only are the basic numbers of tribes relevant here, but the enterprise zone approach, for all its benefits to many American cities and towns, is simply too complex to be of major benefit to American Indians and Alaska Natives. The geographic isolation and relative sparse populations are not conducive to defining zones. In addition, most Indian tribes—even though their demographic profiles would show much greater poverty than most qualifying cities—could not possibly participate if there are only 10 enterprise zones for Indians.

I believe our amendment provides the needed incentives in the form of wage and investment tax credits and will do more for Indians nationwide than will 10 enterprise zones with similar tax losses to the U.S. Treasury, about $181 million over 5 years.

Our amendment was originally introduced by Senators MCCAIN and INOUYE as S. 2254, the Indian Employment and Investment Act of 1992. I am an original cosponsor of that bill.

Unfortunately, our bill was defeated in March 1992, when we offered it as an amendment to H.R. 4210, the National Economic Growth Package, which was then vetoed by the President.

On February 25, 1992, I reintroduced my own legislation, S. 2264, the Indian Employment Opportunity Act. Key features of my bill are:

Wage tax credits to the employer. The credit is calculated in the following manner: 60 percent of the first $8,800 in salary paid to Indians; 20 percent of the wages between $8,800 and $33,000; no credit above wages of $33,000.

Bribes by Indians and non-Indians alike would be Federal felonies.

A prohibition against substantial changes in tribal government tax rates for 10 years.

Today's McCain-Inouye-Domenici amendment is a modified version of S. 2254 which includes both the wage and investment tax credits as incentives to improve Indian economies. We have changed our amendment to improve its effectiveness and minimize the budgetary impact to about $181 million for the 5-year period fiscal year 1993-97.

In addition to wage tax credits to employers on Indian reservations, like I have offered in my bill, our amendment adds an investment tax credit to counter the current disincentives to invest on Indian reservations—e.g. double taxation and severe infrastructure deficiencies.

Our amendment provides two vital incentives to attract private enterprise, the Employment Tax Credit and the Investment Tax Credit.

THE EMPLOYMENT TAX CREDIT

Employers locating on Indian reservations throughout this country will receive a 10-percent tax credit for qualified wages paid to Indian employees. If the Indian workforce is 85 percent or greater, this tax credit is increased to 30 percent.

Wages up to $30,000 are eligible. Wages from any form of gaming—Class I, II, or III—as defined by the Indian Gaming Regulatory Act, are not eligible for this wage tax credit. There is an upper limit of 7 years per Indian employee and a minimum employment period of 1 year is required before a credit can be taken. Only employees hired on or after July 1, 1992, will be eligible for the credit.

THE INVESTMENT TAX CREDIT

This tax credit is linked to the unemployment rates on reservations, and not all reservations will be eligible. Maximum benefits under our amendment will accrue to those reservations with the worst unemployment situations—300 percent above the national average. In these cases, with Indian unemployment rates at about 25 percent and above, three credits are allowed:

10 percent for personal property;

15 percent for construction property;

15 percent for infrastructure investment.

On reservations where unemployment rates are between 150 percent and 300 percent of the national rate, one-half of the above credits will be allowed. No investment tax credit will be allowed for those reservations where unemployment on such reservations is below 150 percent of the national rate.

While those American large and small cities who successfully establish enterprise zones as proposed in H.R. 11, will derive substantial benefit, America's poorest citizens, American Indians, have little chance of reaping such benefits. The special trust status and cultural uniqueness of Indian tribes mandates a special approach.

I believe this approach should be available to each of the 300-plus federally recognized Indian tribes and 200 federally recognized Alaska Native villages. I also believe that the simplified approach of offering wage and investment tax credits will attract greater private sector participation to America's Indian reservations.

I do not dispute the generosity or appropriateness of the proposed enterprise zones, I simply do not believe they are the best approach we can apply to Indian people and their reservations. With the same costs to the U.S. Treasury, we can accomplish substantially more economic activity to those citizens who need it most.

I urge my colleagues to vote in favor of the McCain-Inouye-Domenici amendment before us today.

Mr. CHAFEE. Mr. President, I believe there is no objection to these amendments and they certainly are approved on this side.

Mr. BENTSEN. Mr. President, we have examined the amendments on this side as manager of the legislation for the majority and there are no objections on this side.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, without objection, the amendments are agreed to en bloc.

So the amendments (No. 3235, No. 3236, and No. 3237) were agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 3238

(Purpose: To amend the Caribbean Basin Economic Recovery Act to establish a center to study and support improved trade and economic relations among Western Hemisphere countries)

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

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 3238.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

**SEC. ____. AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.**

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992, demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

**"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than June 30, 1993.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to planning and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

Mr. BENTSEN. Mr. President, this amendment would create a center for the study of Western Hemispheric trade. This amendment matches my previously filed bill, S. 423.

The center would be an academic institution studying the implications of trade between the United States and our neighbors in the hemisphere.

I believe now is the time to create such a center, because we need an objective forum to study recent events which have complicated trade with our neighbors.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. Mr. President, this amendment is acceptable on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 3238.

The amendment (No. 3238) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 3222, AS MODIFIED

Mr. METZENBAUM. Mr. President, it is my understanding the pending amendment of the Senator from Ohio is now ready to be acted upon. Unless there is some objection from some other Member of the Senate, I suggest we proceed forward and bring it up for consideration.

The PRESIDING OFFICER. The question occurs on agreeing to the amendment No. 3222 of the Senator from Ohio.

Is there further debate on the amendment?

Mr. BENTSEN. Mr. President, as manager of the legislation on the majority side, I have examined the amendment and have no objection to it.

Mr. CHAFEE. Mr. President, this is the one that takes 50 percent of the claims that have been made in the past. That is acceptable on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3222), as modified, was agreed to.

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

the amendment, as modified, was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I ask the Senator from Tennessee if he is ready with his amendment.

The PRESIDING OFFICER. We have a pending amendment numbered 3231.

Mr. SASSER. My response to the distinguished chairman's inquiry is I am ready whenever he wishes.

Mr. BENTSEN. We are prepared to consider the amendment now.

AMENDMENT NO. 3239

(Purpose: Defining transportation income.)

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER] for himself, Mr. RIEGLE, Mr. DANFORTH, and Mr. GORTON, proposes an amendment numbered 3239.

Mr. SASSER. 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 Committee amendment, insert:

**SEC. . TREATMENT OF CERTAIN TRANSPORTATION INCOME.**

(a) IN GENERAL.—Section 863(c)(1) is amended to read as follows:

"(1) TRANSPORTATION INCOME BEGINNING AND ENDING IN THE UNITED STATES AND CERTAIN LEASING INCOME.—The following items of gross income shall be treated as income from sources within the United States:

"(A) All transportation income attributable to transportation which begins and ends in the United States.

"(B) All transportation income attributable to the leasing of aircraft (excluding containers) directly or indirectly to a United States resident, (as defined in section 865(g)), for use by the United States resident, except that this subparagraph shall only apply to income from the leasing of aircraft manufactured in the United States."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any lease agreement made after July 1, 1993, in taxable years ending after such date.

Mr. SASSER. Mr. President, this is an amendment that has been not only discussed with the majority staff, but the minority staff and also Senator METZENBAUM and his staff.

The amendment provides that 100 percent of rental income and associated loss of a U.S. lessor on the lease of aircraft manufactured in the United States to a U.S. carrier will be treated as U.S. source income or loss.

Currently, the loss and income associated with the lease of an airplane used in international transportation is treated only as 50 percent U.S. source and 50 percent foreign source income. This amendment would simply require that a lease payment made from a U.S. air carrier to a lessor, where U.S. manufactured aircraft are involved, be treated as U.S. source income regardless of the exact proportion of time or mileage the subject aircraft is used in the United States.

The current 50–50 rule adversely affects the lessor's ability to utilize a tax credit for foreign taxes paid on other foreign income in the earlier years of the lease. This may result in double taxation of such foreign income.

The thrust of this amendment, Mr. President, would be to put U.S.-manufactured aircraft that are operated by U.S. air carriers in international trade on a level playing field with aircraft that are manufactured outside of the United States.

The amendment would have the beneficial impact of stimulating the sale of new U.S. aircraft at a time when certain segments of the U.S. aircraft industry are experiencing some difficulty. It would also have the effect of aiding U.S. international air carriers on international routes, which have the problem of competing with international or other foreign air carriers, which are heavily subsidized by foreign governments or owned by foreign governments.

I am pleased to offer this amendment in conjunction with the distinguished Senator from Michigan [Mr. RIEGLE], the distinguished Senator from Missouri [Mr. DANFORTH], and the distinguished Senator from Washington [Mr. GORTON].

Also I would like to express my appreciation to the distinguished chairman of the Finance Committee and his very able staff, and also to the distinguished ranking member and his equally able staff, for their assistance in preparing this amendment and moving it to this point in the proceedings.

Mr. President, I am prepared to yield back all the time on the amendment.

Mr. BENTSEN. I understand the Senator from Missouri, Senator DANFORTH, is cosponsoring?

Mr. SASSER. He is indeed. I would say to the distinguished chairman I have just acknowledged he was a cosponsor along with Senator GORTON of Washington and Senator RIEGLE of Michigan.

Mr. BENTSEN. Mr. President, we have examined this amendment on this side and I have no objection to it as the manager of the bill.

Mr. CHAFEE. The amendment also has been approved on this side. Senator DANFORTH has worked with the Senator from Tennessee on this. We find it an excellent amendment.

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

The amendment (No. 3239) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

Mr. BENTSEN. Mr. President, with respect to the amendments en bloc offered by Senator CHAFEE, I now ask unanimous consent that all points of order be waived with respect to the provisions of those amendments presented by Senator CHAFEE en bloc during consideration of the amendments, and of the bill as amended, if amended.

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

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

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

Mr. LAUTENBERG. Mr. President, I want to highlight two provisions in this bill that are based on legislation I have introduced to provide assistance to Americans who have been unemployed for an extended period.

The first is a provision that will create an incentive for employers to hire the long-term unemployed. This provision is based on a bill I introduced earlier this year with Senators BOREN and RIEGLE, S. 2220.

Mr. President, almost 10 million Americans are now unemployed, and a significant portion of these have been out of work for a long time. In most cases, these people were laid off not because they are poor workers, or because they do not try hard enough. They are simply the innocent victims of a troubled economy—of forces larger than themselves.

For those unlucky enough to be laid off when business slows, Mr. President, the experience is often traumatic. There is a sense of rejection and betrayal. There is anger. And, perhaps most importantly, there is fear—fear for oneself, and for one's family.

The fear is understandable. Because, while their short-term employment prospects are often bleak, the unemployed face enormous financial pressures. As mortgage and rent payments come due, and bills pile up, millions of American families find themselves trapped by high fixed expenses, and without a paycheck to make ends meet.

These financial pressures, and the emotional pressures associated with them, have real consequences. They lead to more family problems. More medical problems. And even higher rates of suicide.

Compounding matters, Mr. President, the unemployed face a catch-22. The longer they are out of work, the less attractive they become to prospective employers. It is a vicious cycle that is very hard to escape.

Mr. President, the long-term unemployed need a helping hand to break out of that cycle. And that is what this legislation provides.

The concept is very simple. And it builds on a well-established, existing program, the targeted jobs tax credit, or TJTC.

Under current law, the TJTC is available to employers who hire from among nine targeted groups. These include economically disadvantaged youth, Vietnam-era veterans, exconvicts, vocational rehabilitation participants, and AFDC recipients, among others.

This legislation includes the long-term unemployed as a new targeted group for a 6-month period, and then for subsequent 6 month periods if the unemployment rate exceeds 7 percent.

Mr. President, encouraging employment of the long-term unemployed is a matter of basic compassion. But it is also good economic and social policy.

The long-term unemployed represent what might be considered as wasted human capital—resources that should be contributing to economic growth, but are not. Putting these people back to work, and increasing their spending power, should help stimulate the economy to the benefit of all Americans.

Moreover, the long-term unemployed impose real costs on working Americans. When the unemployed stop paying taxes, those in the work force must make up the difference. And as joblessness increases, working Americans also bear greater burdens in paying for AFDC, food stamps, and other social support programs.

Mr. President, I will not suggest that this proposal is the cure-all to the problem of long-term unemployment. The provision is more limited than I had proposed originally, due to the fiscal realities under which the Finance Committee has been forced to operate. And clearly, we need to go much further to reinvigorate our economy, invest in our future, and create more jobs. Still, in my view, this provision is a positive and important step.

Mr. President, when you ask Americans about the most important problems facing our Nation today, and what Congress should be focusing on, the one word that keeps coming up is this: jobs. Unemployment is far too high, and Americans are demanding that Congress do something about it.

Mr. President, take a look at this bill. It has 1,811 pages. and that's not even including any of the amendments that have been added on the floor.

Now, in all of those 1,811 pages, how many provisions are designed to directly reduce unemployment? One. This one.

You know, Mr. President, we in Congress continually are urged to support a wide range of proposals that would encourage people to do various things, and that would give special breaks to a variety of groups. Proponents typically argue that each break will indirectly trigger a chain of events that eventually results in reduced unemployment. In many cases, that may be true. But if we really want to reduce unemployment, we should address the problem headon. The more direct our approach, the more confident we can be that it will work, and work quickly.

This bill would adopt that direct approach for the long-term unemployed. And I want to express my sincere thanks to the chairman of the Finance Committee, Senator BENTSEN, for his support in this effort, and for his longstanding commitment to America's unemployed.

Mr. President, I do want to raise a concern about a technical question that has arisen with respect to the language in the bill. In addition to making the essential changes that I proposed in S. 2220, the committee-reported bill would modify the minimum employment period for eligibility for the targeted jobs tax credit generally. Currently, that period is either 120 hours or 90 days. The bill would eliminate the 120 hour option, and leave the minimum period at 90 days. In addition, the bill would set the minimum employment period at 120 days in the case of the long-term unemployed.

Mr. President, in my view, it makes sense to set a reasonable minimum work period, to target the subsidy to employers who make a real commitment to those hired, and to ensure that the job opportunities provided under the program are meaningful. However, many of those who are involved in the TJTC program have raised concerns about the practicality of administering a minimum employment period based on days, as opposed to hours. I have discussed this with the Finance Committee, and am hopeful that this can be addressed in conference.

Mr. President, let me turn now to the second provision in the bill that aids the unemployed. This one is based on legislation I introduced last year, S. 693. The provision would allow people who are laid off for an extended period to withdraw funds from their IRA's or other retirement accounts, without the 10-percent penalty that would otherwise apply.

Mr. President, many Americans who find themselves out of work have their own savings in an IRA or other retirement plan. These savings can provide a financial life raft to get through this unexpected financial storm. Unfortunately, it is a life raft with a large hole, because, for those under age 59½, withdrawals generally trigger a stiff, 10-percent tax penalty.

Mr. President, Americans do not believe in hitting people when they're down. And I believe there is something fundamentally wrong with imposing a heavy penalty on those who want to gain access to their own money to cope with unemployment.

It is not fair and it is poor policy.

Mr. President, the primary purpose of this provision, of course, is to provide relief to the unemployed. But it also would provide at least two additional benefits.

First, it should increase the savings rate, by encouraging Americans to participate in IRA's and other retirement plans. Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan. They're concerned, understandably, that their savings would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty.

Allowing greater flexibility during periods of involuntary unemployment should reduce this concern. And that should lead to increased savings.

The bill also should provide another indirect benefit. By unlocking savings and injecting money into the economy during periods of high unemployment, the legislation would provide a modest countercyclical stimulus. This would help revive a slow economy to the benefit of all Americans.

Again, Mr. President, I want to express my thanks to Senator BENTSEN for his support of this provision.

SMALL BUSINESS CAPITAL GAINS

Mr. BIDEN. Mr. President, a healthy small business sector is essential if we are to break out of the rut of slow growth we are mired in today. Jobs are the key to quick recovery, and the majority of Americans begin their working lives as employees of our small business sector. Investment is the key to long-term growth, and small businesses take the risks on new products and processes that are the source of future growth in our free enterprise economy.

Unfortunately, Mr. President, the high technology and other startup companies that are the cutting edge of innovation and new employment in our country confront major hurdles as they seek the capital they need. The amendment offered by the Senator from Arkansas will help small and startup enterprises overcome those hurdles.

The need for this source of finance is clear. Despite the efforts of the Federal Reserve to reduce interest rates, the benefits of easier credit have not trickled down to the small business and venture capital sectors of our economy. While major corporations understandably enjoy the benefits of longstanding relationships with their banks, those who take the risks involved in betting on innovation still face skeptical creditors.

By providing carefully drawn tax relief to those who take the risk of in-

vesting in small business and who—unlike mere speculators—stand by their investments for at least 5 years, this amendment will help attract capital to a sector of our economy essential to a quicker recovery of job opportunities now and improved productivity and competitiveness in the future.

THE BENTSEN/PACKWOOD MEDICARE BILL

Mr. BAUCUS. Mr. President, I am pleased to support this package of Medicare and Medicaid amendments of which I am an original cosponsor. This legislation extends many rural health initiatives which are crucial to providing access to health care for people living in rural areas.

A key provision in this legislation would extend the classification of regional rural referral centers through 1994. Regional referral centers are hospitals that offer a broad range of services and treat patients from a wide geographic area. Because their costs are just as high as many urban hospitals, the Congress increased their reimbursement in 1989 so that they would receive the same rate as many urban hospitals. This provision expires on October 1 of this year which means that these vital hospitals would see their reimbursement drastically reduced, forcing many to close as a consequence. The chairman's bill would extend their reimbursement through 1994. After this date, the law allows them to receive this rate permanently. This is a vital provision which provides necessary and fair relief to hospitals struggling to provide care in our Nation's rural areas.

Mr. President, this legislation also extends the Rural Transition Grant Program and increases its authorization to $30 million for fiscal years 1993 through 1997. This program helps small rural hospitals develop health systems with other providers, diversify services, recruit physicians, and develop telecommunications systems so that physicians in manpower shortage areas can consult and receive instructions from other physicians.

Mr. President, I would like to commend the chairman for his hard work on this package. He has included many provisions to help ease the health care shortages in rural areas and I commend his efforts.

LIFE INSURANCE FOR THE TERMINALLY ILL

Mr. LIEBERMAN. Mr. President, I am very pleased that the Finance Committee has included the Living Benefits Act in the urban aid bill. I particularly want to thank Chairman BENTSEN and Senator BRADLEY for their support for this proposal and their efforts to enact it into law. This bill has 72 cosponsors in the Senate. The House version, introduced by Congresswoman KENNELLY, has 131 cosponsors. I am delighted that so many Members are supporting this provision and I look forward to working with the members of conference committee to ensure that this important provision is retained in conference.

When people become terminally ill they are forced not only to confront the tragedy of their disease but also many financial and logistical difficulties. They may lose their jobs, they can't pay their rent or their mortgage, and they often do not have the resources available to obtain much needed medical care. They are left destitute and dying.

Many of those who are terminally ill have carefully saved thousands of dollars over the years. Yet when their illness strikes, this money lies just beyond their reach in the form of life insurance policies. Currently these funds can only be released after the insured dies and are not available to meet the special needs of terminally ill individuals and their families. The living benefits provision in this bill will allow those who are terminally ill to opt for prepayment of death benefits, thereby providing them and their families with the funds needed to live their remaining months in comfort and with dignity.

These prepaid death benefits or living benefits will enable the terminally ill and their families to remain in their homes, receive necessary medical care, and afford home health care and other services which will allow the terminally ill individual to remain at home rather than being forced to spend her remaining days in a strange hospital.

Fifty State insurance commissioners have approved the sale of living benefits policies and riders in their States; however, Federal legislation remains necessary in order to ensure that the recipient of the prepaid benefits does not have to pay income tax on the money, just as survivors who receive the benefits after the insured's death do not have to pay such tax.

Life insurance is the primary savings vehicle for many Americans. The average American household now has $98,400 in life insurance. This money, saved over many years, could enable terminally ill individuals to obtain needed medical care and prevent them and their family from being forced to leave their homes.

Both Prudential Insurance Co. and Connecticut Mutual are to be commended for taking the lead in the insurance industry in proposing and crafting policies which would allow the terminally ill access to these benefits. I am very pleased that this language has been included in the urban aid bill and I look forward to working with Senators BENTSEN and BRADLEY to ensure that this measure becomes law this year.

ON WELFARE REFORM

Mr. LIEBERMAN. Mr. President, the Senate version of H.R. 11 contains two very important provisions to reform our welfare system and make clear that the AFDC Program should be a stepping stone out of poverty not a permanent condition passed from one generation to the next. These provisions will encourage families receiving AFDC benefits to save money for their education and training, or to start up small businesses.

Under present law AFDC recipients are only allowed to have $1,000 in assets. This requirement means that no member of the family is allowed to save even if the savings could be used to lift the family members out of poverty. Recently a family in Connecticut was penalized because two of the children got afterschool jobs to save for college and saved over $1,000. They were required to spend all the money immediately, and not allowed to save their hard-earned money for their college tuition. The law actually allowed them to work, but forbade them from saving their earnings. In response to this misdirected policy, Senator DODD and I introduced legislation which would allow children of AFDC recipients to save for their education. Our legislation would have allowed these young people to save as much as they could to pay for their own or a sibling's education.

The bill before us today will allow States to disregard amounts up to $8,000 if placed in a designated account and withdrawn to enable a family member to attend a postsecondary educational institution or a training program. States may also disregard savings set aside to enhance employability in other ways, such as purchasing a car needed to get to a job, and savings set aside to purchase a home. Finally the legislation will also allow States to exclude as a resource the first $10,000 of net worth of a microenterprise owned in whole or in part by an AFDC-recipient family member. I strongly support this legislation. I do hope that in the future we will allow families to save more than $8,000 because it certainly costs more than $8,000 for several children in a family to attend college, but I do believe that this is a very significant step in the right direction.

In the past decade the administration has decried what it has described as an increasing dependence on welfare, a dependence which is being transferred from generation to generation. Yet, they have done little to help AFDC recipients and their children get off of welfare and become self-supporting taxpayers. The Federal Government tells recipients' children that they cannot save the money they earn for college instead they must spend it within a month in order to protect their family's AFDC eligibility. None of the students are earning enough at their afterschool jobs to take their families off welfare but they can save enough over several years to help pay for college so that they can then get a job which will take them and their family off welfare.

We must give these young people some hope for the future. We must give them a sense that they can indeed control their own future and that if they get a job they will be able to save their money and use it to further their education. Particularly in our current economic situation with jobs so difficult to find, we must also encourage family members to start their own businesses as a way to raise themselves out of poverty.

I believe that this simple change in the law, increasing the amount of money AFDC recipient families can save for specific purposes, will provide important new opportunities to welfare recipients. It also sends an important message that the Government sees its role as helping people off of welfare, encouraging them to further their education or start a new business, and break the cycle of poverty.

LIVINGSTON REBUILD CENTER

Mr. BAUCUS. Mr. President, I ask if my good friend and chairman of the finance Committee, would yield for a question on an important matter affecting a significant number of jobs in my State.

Mr. BENTSEN. I will gladly yield for a question from my friend and Finance Committee colleague.

Mr. BAUCUS. In Livingston, MT, there is an independent investor-owned business called the Livingston Rebuild Center [or LRC]. LRC rebuilds diesel locomotives, repairs railroad cars, and employs 115 workers. It began in 1988 in former facilities of the Burlington Northern Railroad which had been closed for several years and which at the time of closure caused the loss of over 1,000 jobs.

This past summer, the Seventh Circuit Court of Appeals, held that LRC is retroactively liable for railroad retirement taxes based on the strict interpretation of the Railroad Retirement Act. The court's opinion called the 1937 Railroad Retirement Act creaky and stated that it is ill-suited to define which modern day business entities should be covered by the Railroad Retirement Act. However, the court also said, and I believe quite correctly, that problems involving the literal wording of the statute is for the political branches of government, not the courts, to correct.

I am a strong supporter of the railroad retirement system and would oppose anything which would be unfair to railroad workers or railroad retirees. However, I believe this is a situation where clarification of the law is needed so it does not produce unfair results which unexpectedly throws nonrailroad workers out of work. That is the situation we face today.

Mr. President, quite simply put, LRC has informed me that it will likely be forced to close if liability is imposed for the outstanding tax, especially since LRC's business competitors are not liable for those same taxes. This has subsequently led to an overwhelming call by the community for a legislative solution to the impending job losses.

Earlier today, I introduced legislation to effect this change. My question to the chairman of the Finance Committee is whether you would work with me to address this problem and achieve some acceptable solution that is fair to the workers.

Mr. BENTSEN. I would be pleased to work with my friend and committee colleague to find a way to address this problem. While as chairman of the Finance Committee I cannot commit to any particular changes at this time, I certainly understand my friend's concerns about the workers and their families in his State and his desire to save their jobs. I will do what I can to be helpful.

Mr. DIXON. Mr. President, current law requires that ESOP's be "designed to invest primarily" in the stock of the employer. Although there are no regulations on point, this has been interpreted by some to mean that at least 50 percent of the plan's assets must be stock in the employer.

The recently passed unemployment compensation amendments of 1992 significantly expand the ability of employee participants in qualified deferred compensation plans to roll over distributions from such plans, including partial distributions, to individual retirement accounts, or IRA's, without incurring any tax liability. This change will undoubtedly encourage employees to increase rollovers from all types of qualified plans, including employee stock ownership plans, or ESOP's.

What concerns me is that this expansion of rollover rights may unintentionally jeopardize the status of certain ESOP's. If employees, using these new rights, choose to withdraw employer stock from their ESOP accounts and roll the stock into IRA's, the overall percentage of employer stock held by the plan could fall, at least temporarily. While such voluntary withdrawals by employees, which are beyond the control of the employer, don't change the purpose for which the employer designed the plan, concerns have been raised that the resulting decline in the percentage of plan assets invested in employer stock might cause the plan no longer to be deemed to be designed to invest primarily in the employer's stock.

Ironically, this would cause the greatest problems for plans that afford their employees the greatest flexibility. Where, for instance, a plan permits employee contributions to be invested other than in the stock of the employer, and the employees have wide latitude to make partial withdrawals, there is the greatest risk that withdrawals will put the plan at risk, at least for a period of time. Moreover, under the code's anticutback provisions, employers who generously designed their plan to give employees these options cannot now withdraw them in order to protect their plan and other plan participants.

Any such disqualification would be disastrous, particularly for the participating employees and their beneficiaries. Employees would incur taxable income on contributions made by the employer to the plan even though they would not receive a current distribution, and they would lose any ability to roll over plan assets without incurring additional tax. The plan could lose its tax exemption, and, if so, the trustee, employer, and lender to the plan would all then be exposed to a variety of tax liabilities and other penalties. For all these reasons, it is critical that we clarify that employee rollovers from ESOP's to IRA's under the recent amendments were not intended to affect whether the plan is designed to invest primarily in the stock of the employer under section 4975(e)(7) of the Internal Revenue Code merely because such rollovers cause the plan's investment in employer securities to temporarily fall below 50 percent of plan assets.

Mr. President, while the expanded rollover opportunities that passed in the unemployment bill earlier this year could potentially jeopardize some ESOP plans, I do not believe these new rollover opportunities were intended to create difficulties for ESOP plans that give their participants considerable investment flexibility. I would like to ask the distinguished chairman of the Finance Committee whether he agrees with me that the intent of Congress was clearly not to jeopardize ESOP's that give their participants flexibility, and that the impact of the changes made in the unemployment bill on employee elections should not, for purposes of section 4975(e)(7), affect the determination of whether a plan is designed to invest primarily in qualifying employer securities merely because the plan's investments in employer securities fall temporarily.

Mr. BENTSEN. Mr. President, the distinguished Senator from Illinois is correct. The unemployment bill that passed earlier this year was never intended to jeopardize ESOP's that give their participants substantial flexibility.

Mr. DIXON. I thank the distinguished chairman for his understanding and for his assistance.

LEASED EMPLOYEE

Mr. KERRY. Mr. President, I have two questions regarding a clarification of the "leased employee" provision in the bill.

Mr. BENTSEN. I would be pleased to offer any clarifications.

Mr. KERRY. First, when we considered a similar provision on June 23,

1989, you concurred with my understanding that under the definition of "leased employee" then proposed, the fact that an individual's services are not preformed under the control of the intermediary party that arranged for the individual to perform the services for the recipient company does not, by itself, necessarily lead to the conclusions that the individual's services are performed under the control of the recipient company. The services may instead be performed under the control of the individual himself or under the control of an entity other than the intermediary third party or the recipient company. This issue was then, and still remains, particularly important in my State of Massachusetts where a substantial number of workers provide services through brokers as independent contractors. Would my understanding on this point still be correct today under the present bill?

Mr. BENTSEN. It would be.

Mr. KERRY. Second, the explanation of the bill states that the service recipient must exercise control over a worker for the worker to be considered a leased employee. The explanation also states that the determination is made on all the facts and circumstances. I am concerned that this definition not be extended beyond the original intent of the "leased employee" provisions to reach certain professionals like attorneys; accountants and actuaries; doctors; and computer programmers, systems analysts, software and hardware engineers; and other similarly skilled professionals who typically are under the general control of the service recipient. Often the service recipient's establishment of the techniques and methods to be used, and its requirements that work be performed on-site and according to certain stages and timetables, is dictated in many respects by the very nature of the work itself; also there is general direction given as to the results to be obtained. However, this type of general control by service recipients does not appear to be significant in the overall context of the day-to-day work of these professionals who regularly make substantial use of their own judgment and discretion on matters of importance in the performance of their services. Accordingly, this type of general control would not be of whether these professionals are "leased employees." Is my understanding correct of how the "control" test would apply to these workers?

Mr. BENTSEN. Yes, it is correct.

TRUCK EXCISE TAX

Mr. SPECTER. Mr. President, I would like to engage the distinguished managers of the bill, the chairman and ranking member of the Senate Finance Committee, in a brief colloquy concerning the excise tax on trucks which is dealt with in the miscellaneous provisions title of this bill. Although the provision being considered in this bill deals with an exemption for certain educational institutions, my inquiry deals with a more general Internal Revenue Service interpretation of the statute as it enforces a 1987 amendment which clarified the treatment of direct sales made by manufacturers, producers, and importers.

Specifically, in 1987 the Congress clarified that the 12-percent excise tax on trucks being sold at retail by manufacturers, producers, and importers should be assessed against their selling price plus a presumed markup percentage as determined by the Secretary of the Treasury. Apparently, the provision was intended to ensure that direct sellers would pay a tax comparable to that paid by independent third party distributors. However, the conference report supporting this amendment noted that:

> The conferees do not intend that the Treasury Department apply the new presumptive retail sales price rule to such transactions if the lessor/seller establishes that the price to the ultimate user of the vehicle represents an arm's length retail sales price.

Mr. President, the conferees apparently anticipated circumstances that do not lend themselves to a mechanical application of a presumed markup percentage. But Treasury, in its regulations, has imposed an inflexible application of a 4-percent markup without granting the taxpayer the ability to rebut that presumption by providing information to show that its sales have been made at arm's length.

In practical terms, the purchaser of a truck does not make a distinction as to whether a seller is a manufacturer, a company-owned retail outlet, or an independent distributor; price is the determinative factor and in many cases the sales price to a purchaser may be the same no matter who the seller. Yet the manufacturer which sells directly or through its retail outlet is disadvantaged because it must tack on an additional 4-percent presumed markup percentage, for purpose of the tax, and either increase the price to the customer and possibly lose the sale or absorb the add-on. But such sales have been made on an arm's-length basis which is exactly what the Congress wished to recognize as the basis for the excise tax. Thus, the presumed markup computation need not be followed where its application is not necessary to carry out the purposed of the provision and, indeed, creates a distortion in its application.

Mr. President, I would like to say to the distinguished managers of the bill that I, of course, do not wish to rewrite this provision of the Tax Code in my dialog with them. But I would like to ask the distinguished chairman of the Finance Committee if he agrees that, before imposing an arbitrary 4-percent markup percentage on the selling price to establish a basis for the excise tax on trucks sold by manufacturers, producers, and importers, the Internal Revenue Service should accord the taxpayer an opportunity to rebut that presumption, consistent with the intention of Congress, by showing that such sale or sales were made on an arm's-length basis and hence provide the appropriate basis for tax.

Mr. BENTSEN. I agree with the statement of the distinguished Senator from Pennsylvania. In establishing the presumed-markup-percentage concept the Congress granted the Secretary a tool to establish a basis for tax which would generally equate to the price of a sale made in an arm's-length transaction. However, the Congress specifically said that it did not intend that this rule be applied if the taxpayer establishes that the price to the ultimate user represents an arm's-length retail sales price. Therefore, if application of the presumed markup percentage would yield inequitable results, the taxpayer should be provided the opportunity to document its sales as being made on an arm's-length basis and have that arm's length sales price, unadjusted for any presumed markup, be the appropriate basis for assessment of the tax.

Mr. SPECTER. I would also direct the same inquiry to the distinguished ranking member.

Mr. PACKWOOD. I agree with the response of the distinguished chairman.

RETROACTIVE CHANGES IN THE TAX LAW

Mr. SYMMS. Mr. President, I would like to engage the distinguished chairman of the Finance committee in a colloquy regarding retroactive changes in the tax law and the IRS imposing penalties subsequent to those changes in the tax law.

Mr. BENTSEN. I would be happy to discuss this matter with the Senator from Idaho.

Mr. SYMMS. As the chairman of the Finance Committee is aware, Congress occasionally makes retroactive changes in the tax law. When this occurs taxpayers affected by this change in law must resubmit their tax return and pay additional tax liability. I am concerned that the IRS may attempt to impose penalties retroactively on these taxpayers. I do not believe it is the intent of Congress to impose these penalties on taxpayers for changes in the tax law that did not exist when these taxpayers originally submitted the tax return. I hope that the chairman of the committee could clarify congressional intent regarding penalties and retroactive changes in the tax law.

Mr. BENTSEN. It is not the intent of Congress for the IRS to impose penalties on taxpayers who must pay additional taxes due to retroactive changes in the tax law. The IRS uses penalties to discourage taxpayers from avoiding their tax liability or paying it late. If

taxpayers come into timely compliance with any retroactive change in the tax law by paying their tax liability, I do not believe the IRS should impose penalties due to the retroactive change in tax law.

Mr. SYMMS. I thank the Senator from Texas for clarifying congressional intent concerning retroactive changes in the tax law as it relates to penalties. I am sure that thousands of taxpayers are relieved that the Congress did not intend that the IRS would impose penalties on changes in the Tax Code that did not exist before Congress retroactively changed them.

RURAL ENTERPRISE ZONES

Mr. GRASSLEY. Mr. President, I am following up on an issue I raised in the Finance Committee mark up on the legislation before us.

In that mark up, I made the point that while I strongly supported including rural enterprise zones in the bill, it was important that the tax benefits in the bill not encourage corporate farming at the expense of family farms.

We want—and we need—rural enterprise zones to be included in this bill. A number of weeks ago, I wrote to the President, as well as to Senator BENTSEN, chairman of the Finance Committee, encouraging them to support rural enterprise zones in the enterprise zone package that was being put together. I am very grateful that rural enterprise zones were included in both the President's and the chairman's proposals.

In our effort to assist urban communities in the aftermath of the Los Angeles riots, we can't forget the needs of our rural communities. It is very unfortunate, but there are rural areas in my State of Iowa that have a similar per capita income as south central Los Angeles. These rural communities need help too, and I am encouraged that this need has been recognized.

However, in our effort to help these communities, we have to be careful that we do not do more harm than good.

Under the committee bill, and even more so in the House version, corporate interests were given potentially dangerous tax incentives to invest in agriculture. These investments would further damage the very existence of the family farm. We have seen the damage done when tax benefits have been given to corporations to invest in agriculture. The resulting unfair competition, overproduction and depressed prices led to the loss of thousands of family farms across the country.

Mr. President, we do not need more corporate investment in farming. We need more corporate investment in rural diversification.

Nonagricultural, diversified business investment will help many of these hard-hit rural communities get back on their feet, without interfering with or competing with the local farming infrastructure.

I am very encouraged that, following the committee markup, the chairman took my concerns and suggestions in mind and did modify the committee bill to limit benefits to farming operations that consist of under $500,000 in total assets over a lifetime. This is certainly strong movement in the right direction. But, at this point, a few concerns still remain. And, I would like to pose a few questions to the manager of the bill, Chairman BENTSEN.

My first concern regards the possibility of investors creating multiple legal entities that appear as a number of small farms on paper, but are actually under the control of a single entity. I hope the chairman also recognizes this as a potential problem.

In addition, I have concerns about the $500,000 asset test. The basis of breeding and dairy stock raised by farm taxpayers using cash accounting could be zero. So, it appears that in a number of cases, the asset test could be circumvented by operations that have a great deal more than $500,000 in assets.

Furthermore, it seems that, in some instances, applying the asset test to the previous year could render the test moot, since the basis of a new operation that did not exist in the previous year would be zero. Therefore, the asset test should be applied at the end of the tax year in which the benefits are claimed rather than at the end of the preceding tax year. I hope the chairman shares these concerns.

Mr. BENTSEN. I do understand the concerns of the distinguished Senator from Iowa, Senator GRASSLEY, and I want to assure him that I do not intend to come out of conference without sufficient antiabuse rules that will address these concerns.

Mr. GRASSLEY. I thank the able chairman and I look forward to working with him in achieving our mutual goals.

THE CDC PROVISIONS IN THE REVENUE ACT

Mr. KENNEDY. Mr. President, any serious plan for investing in distressed communities must include the local organizations who are at the front line of economic development in our inner cities and rural areas: community development corporations. There are over 2,000 CDC's operating nationwide which have contributed to our communities more than 320,000 units of affordable housing; 90,000 permanent jobs; and over 3,500 loans to small businesses.

The revenue act approved by the House included a tax credit of $2 million for contributions of up to 10 CDC's for projects to create jobs and business opportunities for low-income individuals. This is a good step, and should be included in the conference agreement.

Additionally, I would like to see the definition of CDC's conformed to that in the National Economic Partnership Act, S. 1866. In particular, we need to clarify that eligible organizations must be private, nonprofit entities.

I urge Senator BENTSEN to accept in conference the House provision for tax credits for contributions to CDC's. By doing so, we strengthen those organizations that are best equipped to carry out urban and rural revitalization.

Mr. RIEGLE. Mr. President, I would like to echo Senator KENNEDY's support of the tax credit for contributions to CDC's included in the House version of this bill.

CDC's have successfully blended physical economic development, such as housing and commercial construction, with community building activities, such as job training and homeownership counseling. CDC's have also played an active role in strengthening capital access for microenterprises, an engine for revitalization and growth that has traditionally encountered difficulties in obtaining financing from conventional lending sources.

The tax credit would expand the breadth and depth of services that CDC's in distressed urban and rural areas could make available in their communities. I expressed my support for this provision prior to the markup before the Finance Committee and urge its acceptance in the conference agreement.

Mr. BENTSEN. Mr. President, I am aware of the Senator's interest in stepping up support for CDC's which have performed remarkably in serving low-income communities. The additional costs involved in providing such support could be well worth the Federal investment, as CDC's have been successful in leveraging private dollars.

I look forward to resolving this issue in conference.

APPLICATION OF INTANGIBLES PROVISIONS TO VIDEOTAPES PURCHASED AS PART OF THE ACQUISITION OF A TRADE OR BUSINESS

Mr. MACK. Mr. President, I would like to ask the chairman of the Finance committee his view as to the application of section 4501 of H.R. 11, the provision dealing with the amortization of acquired intangible assets, to mass-produced videotapes, recordings, books, and other similar items that are readily available for purchase by the public, have not been substantially modified, and are acquired without the acquisition of the copyright or any right to copy or other exclusive license. It is my understanding that when such items are purchased as part of the acquisition of a business that sells or rents such items, the items are not section 197 intangibles.

Mr. BENTSEN. That is correct.

Mr. MURKOWSKI. Mr. President, I rise today to speak on the enterprise zone provisions contained in this bill. I am pleased to see these provisions because I believe that providing incentives in badly depressed areas of this Nation will serve to promote economic growth, specifically jobs.

Much of the support for enterprise zones grew out of the Los Angeles

riots, but I would like to say now that the problems of rural America are in many places just as bad as those of the big cities of this country.

In my State, there are vast rural areas where the unemployment rate reaches as high as 20 percent. I was recently in one village on the Kuskokwim River in western Alaska where the only medical facility was in a log cabin with no hot water. A log cabin which had newspapers stuffed in the cracks between the logs as insulation. For far too many rural Alaskans, Mr. President, that sort of life is a reality.

That is why I am pleased to see that this bill creates 40 rural enterprise zones. Further, Mr. President, we have been able to lower the population requirement for a rural enterprise zone from the original Finance Committee proposal of 10,000 to 5,000. There are huge sections of my State where there simply are not 10,000 people living in a small enough area for an enterprise zone to function appropriately. Frankly, Mr. President, I would have preferred to lower the population requirement even further, to 1,000, as in the version passed by the other body, but I believe that 5,000 is a step in the right direction which will help bring the hope and the opportunity offered by enterprise zones to the people of rural Alaska.

I would ask the chairman of the committee a brief question.

Mr. BENTSEN. I would be happy to answer a question by the Senator from Alaska.

Mr. MURKOWSKI. I thank the chairman. I understand that the other body's version of H.R. 11 has as its population requirement 1,000 people, Mr. Chairman, I wonder if you could assure me that in conference you will work to ensure that there is no increase from 5,000 in the Senate's population requirement for a rural enterprise zone and, if possible, work toward lowering the requirement toward the other body's 1,000.

Mr. BENTSEN. I believe that I can assure my friend that, as I understand his concerns, I will work within conference to ensure that the population requirement for rural zones does not grow beyond 5,000 and that I will work to address the concerns of the Senator from Alaska and other Senators from rural States.

Mr. MURKOWSKI. I thank the chairman. I appreciate the consideration shown, as always, by the Senator from Texas and I yield the floor.

EXEMPTION FOR PUBLIC TELEVISION SPONSORSHIPS

Mr. COCHRAN. Mr. President, section 8005 of this bill deals with unrelated business income tax [UBIT] on sponsorship payments received by tax-exempt organizations. I am interested in knowing the intent of the committee regarding corporate sponsorship payments made to public broadcasters and producers of public broadcast programming. Was it the intent of the committee to continue the current practice of allowing tax-exempt status of sponsorship payments made to public broadcasters and producers of public broadcast programming?

Mr. BENTSEN. I appreciate the distinguished Senator from Mississippi bringing this to the Senate's attention. The committee intended to maintain the status quo regarding corporate underwriting of public broadcasting programs. Corporate sponsorship is an important source of support of our Nation's public broadcasting system and enables the offering of many fine programs which are educational and enjoyable.

Mr. PACKWOOD. If the Senator will yield; I agree with Senator BENTSEN's interpretation. The committee did intend to include sponsorship payments made to public broadcasters and producers of public broadcast programming, which are made in exchange for acknowledgements, among qualified sponsorship payments for purposes of the safe-harbor rule provided by the bill.

Mr. COCHRAN. I thank the Senator for this explanation. As he knows, the Federal Communications Commission has evolved a series of rules over the past several years which govern this underwriting. Does the Senator make compliance with these rules a requirement for qualifying for the tax-exempt status?

Mr. BENTSEN. The committee report requires that corporate sponsorship announcements or representations meet the Public Broadcasting System [PBS] national program funding standards and practices in order to be granted tax-exempt status. It has come to my attention that America's public television stations believe that it may be more precise to require that these payments be made consistent with sections 399A and 399B of the Communications Act—47 U.S.C. 399A and 399B—and the public broadcasting rules of the Federal Communications Commission, the statutory authority for the internal PBS standards and practices referenced in the committee report. I assure the Senator that we will take a look at this reference in conference.

Mr. COCHRAN. I thank the managers for clarifying the intent of the committee.

ESTABLISHMENT OF AN EXPERIMENTAL ENTERPRISE ZONE TO ASSIST THE ECONOMIC RECOVERY OF SOUTH DADE COUNTY, FLORIDA IN THE AFTERMATH OF HURRICANE ANDREW

Mr. MACK. Mr. President, I would like to make an inquiry of the distinguished chairman of the Senate Finance Committee on whether it would be appropriate under title I of H.R. 11, the Revenue Act of 1992 to include areas like south Dade County, which suffer extreme economic distress as a result of natural disasters. It is my understanding that this legislation is intended in part as an experiment to evaluate the effectiveness of enterprise zones to assist the economic recovery of areas suffering extreme economic depression. I believe that enterprise zones would provide enormous benefits to assist citizens of our Nation in aftermath of natural disasters. In fact, south Dade County as it exists today would easily meet the criteria established by H.R. 11. I would hope that the Chairman would agree that south Dade County would provide a unique opportunity to evaluate another potentially valuable use for enterprise zones.

Mr. BENTSEN. I agree with my colleague from Florida that one of the major objectives of this provision is to evaluate the effectiveness of enterprise zones as a tool of economic development. In fact, I would like to point out that the criteria in the Finance Committee's bill specifically directs the Secretary of Housing and Urban Development to consider general distress criteria. The technical explanation of the bill states that designation of the area as a disaster area is a factor which must be considered. Assuming this area meets the poverty criteria, I believe this area will be a prime candidate for designation of an enterprise zone.

RURAL ENTERPRISE ZONES

Mr. CONRAD. Mr. President, I rise to engage the distinguished chairman in a colloquy on an amendment I had planned to offer to diversify the eligibility criteria for rural enterprise zones. I would like to start by thanking the chairman for his extraordinary efforts to develop enterprise zone legislation that would respond to the tragedy in Los Angeles earlier this year. And I would like to commend him in particular for looking beyond the economic despair in urban areas to the distress of many rural areas and Indian reservations. Rural America has a true friend in Senator BENTSEN.

However, I do have one concern with the enterprise zone language before us: I am afraid that the provision could inadvertently limit the access of some severely distressed rural areas to the economic opportunities provided by enterprise zones. Consequently, I had intended to offer an amendment to make these areas eligible for nomination as rural enterprise zones. While the criteria in the bill—high rates of unemployment and poverty—are clearly important indicators of economic distress, I am concerned that these criteria do not acknowledge the economic distress felt in many areas that do not necessarily exhibit these symptoms. I strongly believe that in some parts of our country, including my own, other indicators such as out-migration and falling incomes are more appropriate measures of distress. Yet it is my understanding that, as the provision is currently drafted, a severely distressed

rural areas that hassuffered steeply declining income and very high out-migration could not be nominated as an enterprise zone if it does not also suffer both high unemployment and poverty. Could the manager tell me if my understanding is correct?

Mr. BENTSEN. The Senator from North Dakota is generally correct. The criteria specify that each census tract in an area to be nominated as an enterprise zone must have a poverty rate of not less than 25 percent, and further that not less than 80 percent of the population census tracts within the nominated area must have a poverty rate of not less than 35 percent. In addition the nominated area must be one of pervasive unemployment and general distress. Thus, as the language currently stands, no area may be nominated that does not exhibit both high poverty as specified and pervasive unemployment. However, it was our intention in drafting this provision that the term "general distress" would allow the Secretaries of Agriculture and Interior to consider such factors as out-migration and other factors, which the Senator from North Dakota correctly identifies as important indicators of distress in many rural areas, when implementing this legislation.

Mr. CONRAD. Mr. President, I appreciate the explanation of the chairman. However, I remain concerned that, unless this language is changed, economically distressed areas in my part of the country would remain ineligible for nomination as enterprise zones. Because I do not wish to unduly delay the Senate by engaging in a lengthy debate on the amendment I had intended to offer, though, I wonder whether the chairman would be able to assure me that this issue would be reconsidered in conference if I were to refrain from offering my amendment? I and many of my colleagues with whom I have discussed this issue prefer the language in the House version of H.R. 11, which includes out-migration and declining total wages from employment as criteria for eligibility.

Mr. BENTSEN. Mr. President, I understand the Senator's concern and I appreciate his bringing it to the attention of the Senate. He is right that some severely distressed areas which would be eligible under the House approach would not be eligible under the Senate approach. While I remain committed to including poverty as a defining criterion, I would be happy to assure my colleague that the Senate conferees, in their negotiations with the House conferees, will take into consideration the concerns regarding out-migration and other indicators of distress in rural areas raised by the Senator from North Dakota and other Senators representing rural States.

Mr. CONRAD. Mr. President, I thank the chairman for his willingness to reconsider this issue. Based on his assurances, I will refrain from offering my amendment at this time. We have a diverse country, with a diverse and changing economy. This diversity and these changes require us to consider a broad and diverse set of indicators to determine the health of regional economies. I urge my colleagues on the conference committee to recognize this phenomenon and support the inclusion of other indicators of rural economic distress in the eligibility criteria for rural enterprise zones as they develop the final version of this legislation.

PICKLE CARDS

Mr. EXON. Mr. President, I have introduced legislation, S. 624, that addresses the serious problem that we now have in Nebraska regarding the taxation of charitable gaming. Many Nebraska charities sell pull tab cards, called pickle cards in parts of my State, as a way to raise needed funds. The sale of these cards is regulated by State law. There are over 200 charities in Nebraska who are licensed by the State to conduct such gaming. They are diverse organizations such as fire departments, athletic booster clubs, American Legion posts, Catholic churches, and the AFL–CIO.

These are very low stakes games of chance. Most pull tab cards cost a dollar and you might receive a few dollars in return if you drew a winner. The profits from the sale of the cards are used for needed community services and the organizations selling the cards rely heavily upon volunteers for their efforts.

In early 1990, many Nebraska charities began receiving large tax bills, with back taxes, interest, and penalties, for gaming income dating back to 1986 relating to the sale of these pull tab cards. As these are charitable organizations, the prospect of significant amounts of back taxes in many cases threatens their continued existence. If they had simply been flaunting a well known and clear law, I would not be sympathetic.

But our law relating to the applicability of the unrelated business income tax has been in my view anything but well understood and clear. In 1984, we determined that such income, such as that from the sale of pull tab cards by Nebraska charities, would not be taxable under the unrelated business income tax. Yet, in the 1986 tax bill, in a little known provision, the law was changed so that only charities in one State, North Dakota, are allowed an exemption from that tax. It was that change, and a subsequent provision that passed in 1988, that finally caught up with Nebraska's charities in 1990.

The House of Representatives, several weeks ago, passed a bill, H.R. 5660, that addresses part of the problem. That bill is, however, prospective only in scope and is not a complete resolution of this matter.

As the chairman knows, I have been pushing hard for a solution to this issue and I appreciate the attention and time that he has afforded me. Although I have given strong consideration to offering an amendment to this bill, I recognize that the issue of Federal taxation of charitable gaming is complex and may have a significant revenue impact.

As such, I would like to know if the chairman has considered this issue and if he would agree to taking a close look at this issue in conference, in light of the action in the House of Representatives? If the matter cannot be resolved in the context of this bill, can I have his assurance that the committee will more fully review and address this issue in the coming year?

Mr. BENTSEN. I would like to first commend my good friend from Nebraska for his diligent efforts in bringing this issue to my attention. Although this bill does not include a provision regarding how the unrelated business income tax effects charitable gaming profits, I am well aware of this issue due to the Senator from Nebraska's strong support for a solution and his introduction of S. 624.

As we have had many amendments proposed for this bill, I am not able to directly resolve the Senator's problem at this time. This is indeed a rather complicated issue and one whose resolution could have an impact in many States.

In response to the Senator's inquiry, I certainly will take a close look at the House bill he mentioned as it at least partially resolves the matter. In the event that something cannot be worked out in the short timeframe left on this particular bill, I will agree to have the Finance Committee more carefully and thoroughly review this issue early next year to determine if a solution, along the lines of S. 624 or perhaps another proposal, can be developed.

Mr. EXON. I thank my good friend from Texas and look forward to your continued cooperation in resolving this very important issue.

CRAIG-HATCH ADOPTION/YOUNG CHILD PRO-FAMILY AMENDMENT NO. 3200

Mr. CRAIG. Mr. President, just 2 days ago, we considered the Family and Medical Leave Act, returned to this body by the President, vetoed.

We debated two different approaches to family leave: Mandating it for the 40 to 50 percent of employees who work in the 5 percent largest businesses in the United States, as S. 5, the vetoed bill, would do, versus tax incentives to provide family leave for the 80 percent of private sector employees who work in the more than 99 percent of American workplaces with fewer than 500 employees.

But, regardless of approach, we were 100 percent united on the same goals:

We were seeking to make it easier for individuals to provide for the care of family members during times of emer-

gency or great need and, especially, to help parents spend time with and provide care for a child immediately after birth or adoption.

That's the very goal of this amendment.

The amendment I am offering with Senators HATCH, COATS, GORTON, MCCAIN, and SEYMOUR, is a simple one, with four parts. It would:

First, provide a $5,000 deduction for adoption expenses;

Second, Increase by 50 percent from 5 percent to 7.5 percent—the supplemental young child credit, providing 12 times as much in tax, relief for working poor families, as HR 11:

And provide two offsets, making it revenue neutral—saving some $62 million, actually, by:

Third, creating a third, 10-percent bracket for dependent care tax credit [DCTC] at the top end of the income scale; and

Fourth, maintaining current law regarding the interaction between the supplemental young child credit [YCC] portion of the earned income tax credit [EITC] and the dependent care tax credit, by striking a provision in H.R. 11 that allows a few taxpayers to claim both the young child credit and the DCTC.

DEDUCTION FOR ADOPTION EXPENSES

These provisions would:

Create a deduction for up to $5,000 of expenses related to any adoption—except for adopting a spouse's child; H.R. 11 provides only a deduction of up to $3,000 for special needs adoptions;

Exclude from an employee's taxable income adoption expenses of up to $5,000 paid by his or her employer; deductibility would be phased out for taxpayers with adjusted gross incomes [AGI] between $80,000–$90,000—except for special needs adoptions—and double benefits would not be allowed—for example, expenses deducted and reimbursement by employer excluded from income.

There are numerous reasons why we should enact this adoption deduction.

First, we want, and can afford, to do more than the limited, special needs provision in H.R. 11. The Craig-Hatch amendment will provide for a deduction for special needs adoptions larger by two-thirds than that in H.R. 11, and would make this deduction available for essentially all adoptions.

We hear this amendment criticized, right here in this body, as creating "an incentive for adopting healthy white babies, for which there already is a large demand." This analysis is wrong on every basis—definitional, demographic, medical, and tax policy.

Special needs, in H.R. 11, are defined by State law. Therefore, the conditions that meet this definition can vary widely—capriciously, in fact—from State to State.

In one State, age alone may qualify a child for special needs adoption, while, in another, a profoundly retarded and physically disabled child might not qualify. In some State, a taxpayer-subsidized adoption of a healthy white baby through a State agency automatically will qualify as a special needs adoption, while a much more expensive, unsubsidized, adoption of a minority or disadvantaged child—even a crack cocaine baby, for example—through a reputable private agency will not qualify.

The result of tying eligibility for this particular, national, tax deduction to State definitions would be inconsistent, even nonsensical, applications of the law.

Adoption is a legitimate expense of having a family and should be recognized as such by being made deductible.

An incentive argument makes absolutely the wrong analysis. No one will want to adopt a child more or less based on a tax deduction. But such a deduction may make the difference in whether a modest or middle-income family is able to adopt.

We simply would allow an important and legitimate expense like adoption to be treated like one, as we do for so many other expenses in so many cases. For example:

Employer-provided health insurance that covers childbirth is deductible to the employer and excluded from the employee's income;

Major medical expenses, not covered by insurance, are deductible;

Job-related moving expenses are deductible;

Just this week, the Senate reaffirmed current law that advertising, generically—that is, including that for tobacco products—is a legitimate, deductible, business expense, and kept H.R. 11's deduction for amortized business goodwill; and

Dues to professional societies, unions, and chambers of commerce are deductible by individuals.

If deductions for these and so many more costs of doing business or costs of living have found a place in the Internal Revenue Code, how equally—indeed, how much more—legitimate is a deduction for adoption?

INCREASING THE SUPPLEMENTAL YOUNG CHILD CREDIT (YCC)

The YCC was created, as a component of the earned income tax credit [EITC], as part of the major child care law in the 1990 Budget Reconciliation Act. It is available only to families with a child less than 1 year old, in recognition of how critically important parental care is in that first year in a newborn's life. As a Member, then, of the other body, I supported creation of the YCC in its present form.

As my colleagues know, the underlying EITC is available to low-income families, with a child under age 19, and with at least one parent in the paid work force, on a nondiscriminatory basis, that is, traditional and nontraditional families are equally eligible, and in 1992, the credit is phased out between $11,840–$22,370—adjusted annually for inflation.

Up to an earned income level of $11,840, the basic EITC rate is 17.6 percent of the first $7,570, indexed, of earned income for a maximum basic credit of $1,324 in 1992, or 18.4 percent maximum $1,384, for an EITC family with two or more children.

The supplemental YCC currently is an additional 5 percent, simply added right on top of the basic EITC. The maximum YCC credit in 1992 is $376.

Like the rest of the EITC, the YCC is refundable—an eligible family can receive back more through the EITC and YCC than its total tax liability—like a negative income tax.

I want to emphasize, and I want my colleagues to keep in mind as we debate this amendment, that everyone who qualifies for the YCC already is claiming the EITC.

Congress had a number of purposes in enacting the Supplemental YCC:

As with the competing family leave proposals we debated earlier this week, to make it easier for families to meet stay-at-home needs that arise during critical first year of child's life;

To treat all low-income, working families with newborns in a nondiscriminatory way;

To extend tax benefits comparable to the dependent care tax credit [DCTC] to working poor families with newborns who don't qualify for the DCTC; and

To provide EITC families eligible for the DCTC with a simplified way of obtaining the DCTC-comparable young child credit without having to meet all the documentation requirements of the DCTC.

What does the Craig-Hatch amendment do?

We would increase the supplemental YCC from 5 percent to 7.5 percent—a 50-percent increase in this tax credit for working poor families with an infant under 1 year old. This would allow a new maximum young child credit of $592 in 1993, up from $395 in that year under current law, based on Joint Tax Committee [JTC] credit base estimates in the House Ways and Means Committee's 1992 Green Book.

REVENUE OFFSET: REDUCE DEPENDENT CARE TAX CREDIT [DCTC] CLAIMED BY HIGH-INCOME HOUSEHOLDS

Under current law, the DCTC is a nonrefundable credit for day care expenses for a child under 13—or an adult dependent who cannot care for himself or herself.

To qualify for the DCTC:

Day care expenses must be documented—that is, the taxpayer must report the tax ID number of the caregiver to the IRS and the taxpayer must keep complete records of the care and expenses;

The taxpayer must utilize formal day care—that is, not care by family mem-

bers or other informal arrangements; and

In a two-parent household, both must be employed out of the home or seeking employment.

The current DCTC rate structure is as follows:

A 30 percent credit can be claimed for taxpayers with adjusted gross income [AGI] of $10,000 or less;

There is a phase-down between $10,000–$28,000 of AGI;

A 20 percent credit is allowed for taxpayers with AGI above $28,000.

The maximum expenses against which the credit can be claimed are $2,400 for one child and $4,800 for more than one.

Consistent with current progressivity at the lower end of the AGI scale, the Craig-Hatch amendment would phase down the DCTC again at the high end of the income scale, from a 20 percent rate down to a 10 percent rate, over the AGI range of $80,000–$90,000;

By adding this third, 10 percent bracket above $90,000 AGI, the Craig-Hatch amendment would:

Allow the channelling of additional tax credit revenues to the young child credit, where they will have maximum impact, being used by low-income families with a child under one and by adoptive families;

Provide tax credit assistance on a less discriminatory basis, because: It will fund a significant increase in the YCC which, unlike the DCTC can be used by traditional families, those with family care givers, and those intimidated by the documentation and paperwork required to claim the DCTC; it allows a deduction for all adoptions, not just randomly defined special needs adoptions.

REVENUE OFFSET: STRIKE HR 11'S REPEAL OF EITC-DCTC ELECTION

Under current law, a family that otherwise would qualify for both the YCC and the DCTC must elect which credit to claim. This is wholly appropriate and concerns a very small number of households. There is very little overlap between the two credits. In fact, to qualify for both, a family would have to:

Have less than $22,370 this year in earned income;

In most cases, have an AGI over $10,000—since the DCTC is not refundable, the family must have a positive tax liability to offset;

Have a child younger than 1 year;

In a two-parent household, have both parents in the paid work force;

Carefully document expenses, report day care information to the IRS, and keep detailed records;

Use formal day care services.

In preparing this amendment, we tried to pin down just how many would qualify for both credits, but could not. The YCC, after all, is a new credit. However, based on JTC's $51 million cost over 5 years for allowing a double dip—collecting both credits—an estimate that 30,000 households would qualify would be quite reasonable.

I remind my colleagues of the policy reasons for the current law requirement that families qualified for both the YCC and the DCTC make an election between the two credits.

The YCC was not meant to supplement the DCTC, but to extend comparable tax credit benefits to low-income, traditional families, and low-income families who want to make less formal child care arrangements than those qualifying for the DCTC.

Allowing DCTC-qualified families to elect the YCC instead actually simplifies the tax system. These families already are claiming the EITC and it would, in many cases, be simpler for them to also claim the YCC component of the EITC, rather than go through a second set of calculations to claim the DCTC, as well.

For families eligible for the EITC and, if there is a child under age 1, for the YCC, the average DCTC claimed is only about $370. In fact, the maximum DCTC that can be claimed by families in this income range—under about $22,000—runs from zero to $624 for one child.

As I mentioned before, for 1993, our amendment would increase the maximum supplemental YCC to $592, from $395 under current law.

Obviously, by increasing the young child credit by 50 percent, the Craig-Hatch amendment furthers our goals in creating the YCC. We provide a better DCTC-comparable credit to EITC families with an infant under one. And we provide a credit of sufficient size that only those families with large out-of-pocket day care costs or those in the upper phaseout range of the EITC would need to bother with computing both credits for the purpose of making an election between them.

In contrast, H.R. 11 would repeal the 1990 requirement of an election between the YCC and the DCTC and allow families that meet the qualifications for both credits to claim both, for a JTC-estimated cost of $51 million over 5 years.

The Craig-Hatch amendment would strike the election-repeal in H.R. 11, merely maintaining current law regarding the election between the YCC and DCTC.

We will hear today that, in striking the election-repeal, this amendment would "take a tax credit away from working poor families." Nothing could be further from the truth, Mr. President.

Because of our 50 percent increase in the YCC, the Craig-Hatch amendment provides almost 12 times as much in tax relief to working poor families as does H.R. 11, with regard to the interaction between the YCC and DCTC. We would increase the maximum YCC a family could claim by almost $200 in 1993, and distribute the benefits of this more generous tax credit much more broadly than H.R. 11.

Mr. President, increasing the YCC is far preferable to expanding eligibility for the DCTC, for four major reasons.

First, the DCTC is essentially a middle-to-upper class tax break; few working poor families can afford the expensive, documented, formal day care necessary to claim the DCTC.

Second, in half of all families with newborns, one parent takes at least a year off from paid work to stay at home. The large majority of families want one parent to be able to stay at home for the first year of a newborn's life, recognizing that the first year is a critical, formative time. The DCTC discriminates against traditional families, and also excludes those who use family caregivers and other informal babysitting arrangements.

Third, the YCC is nondiscriminatory, equally benefiting traditional and nontraditional families.

Fourth, the YCC is simpler to qualify for and to claim, since it is merely a component of the EITC for which the family already is filing and does not require the extensive documentation and formal, day care business arrangements needed to claim the DCTC.

Some of the opponents to our amendments say that current law is too complicated and that our amendment will make tax forms too complicated for low-income families. Having touched on the issue of simplification more than once, already, in my statement, it is time for me to address these arguments directly.

H.R. 11 is not simpler than the status quo or the Craig-Hatch amendment.

In all cases, as we debate the DCTC and the YCC and their interaction, we are talking only about families already claiming the EITC.

Can the EITC be simpler? Yes. Should it be? Yes. But that is a problem with the underlying EITC, not with the supplemental YCC or with our amendment. In fact, I wish that the Finance Committee would have done something in H.R. 11 to make filing for the EITC simpler.

The YCC is just another 5 to 7.5 percent under our amendment—on top of the EITC. Everyone who claims the young child credit, and everyone who elects to take the DCTC instead of the young child credit, already is computing and claiming their EITC.

Opponents of our amendment have argued that removing the requirement for an election between the young child credit and the DCTC will simplify the filing of tax returns for some families. However, it would not.

Under H.R. 11, eligible families would have to compute both credits to take both credits.

Under our amendment, some eligible families will want to compute both credits to see which one benefits them more.

If, either way the family makes the same computations, figuring both credits, how is H.R. 11 simpler than current law or our amendment?

It is not. And, actually, our amendment does more for simplification. Under our amendment, those families who already will take the EITC and who have a child under 1 do not have to compute both credits. Our amendment gives them up to an additional $197 for the YCC, which means fewer families will have any need to bother with computing the DCTC.

This means that the Craig-Hatch amendment is the simplification provision, not the YCC/DCTC provisions in H.R. 11.

I conclude by submitting a final, revised summary of the costs and offsets related to our amendment, according to estimates received from JTC. Over 5 years, in millions of dollars these are as follows:

| | Millions |
|---|---|
| Full $5,000 adoption deduction (net above H.R. 11) | $63 |
| Increasing Suppl. young child credit to 7.5 percent | 599 |
| Total revenue costs | 662 |
| Savings from keeping YCC/DCTC election status quo | 51 |
| Savings from upper-end phase-down of DCTC | 673 |
| Total revenue-saving offsets | 724 |
| Net savings from amendment | 62 |

Mr. President, the Craig-Hatch amendment is the proadoption, profamily, tax relief, and simplification amendment for families of modest- and middle-class means. It is fair, compassionate, and more than pays for itself. I urge its adoption.

Mr. BENTSEN. Mr. President, we draw to a close lengthy debate on this tax bill. I want to state to the staff how deeply I appreciate the commitment, the dedication and the effort of the Finance Committee staff, both for the Republican side and the Democratic side: Van McMurtry, Sam Sessions, Marina Weiss, and on down the list.

I do not think the public realizes the amount of hours that are put into the effort. I know time and time again the private sector comes along and takes them away from us and often far beyond the compensation they had in their Government job. I think they stay in this mode and work such hours because they can contribute to making a difference in what we think is the betterment of the people of this country. I for one as chairman of the committee am very appreciative of them.

Mr. CHAFEE. Mr. President, I would like to join with our distinguished chairman of the Finance Committee in paying tribute to the staff for what they have done here. I, particularly on our side, would like to single out Lindy Paull, Rick Grafmeyer, Greg Powell, Mark Prater, and Ed Mihalski and others.

What the chairman said was exactly true. These individuals worked very, very hard. They are knowledgeable about these intricate tax measures that come before us and the amendments that are showered in from different directions. Without the able staff, we would really be in a very severe situation here. So I join in the tribute to that staff.

Mr. President, if I might, I know we are just about ready to go to final passage on this bill, but I would like to say a word about this bill.

Everybody has certain features in this bill they are interested in. I am particularly anxious that this bill includes, amongst other things—and there are many good parts of it and some parts I do not like—but finally we get rid of the luxury tax in this legislation which is terribly important to my State, as it is to the State of the distinguished majority leader and others.

Second, Mr. President, I would like to say in this legislation, we provide for the extension of the so-called extenders, the mortgage revenue bonds and the R&D tax credit and other measures, low-income housing provisions. I just touch on those because they are of particular importance to my State. There are other features in this bill that I think are good. I think it is a good bill. There are some down features. I am not interested in all the provisions dealing with the IRA's. I think we went too far, the back loaded IRA's so-called. But we had our fight on that and we lost.

I hope when this bill comes out of conference, it can be acceptable to the administration in all respects.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, if I might also express my appreciation for the work of Hank Gutman and Dr. Alan Auerbach.

As these things go, of course, I think again of Randy Hardock, Norm Richter, Maurice Foley, John Leggett, Susan Himes, Patricia McClanahan, Bob Kyle, Lisa Potetz, Kathy King, Alan Cohen, Margaret Malone, Ron Davis, Marcia Miller, Eric Biel, Debby Lamb, Mark Mazur, John Talisman, Peter Cobb, Mary Schmitt, Bernie Schmitt, and Janis Guerney.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, in the same spirit the very able and gallant Senator from Rhode Island has spoken, may I point out that in this tax bill there is a provision of great importance to all of us, not the least of Senator CHAFEE, that restores to the private universities and colleges of this Nation their status as exempt persons with respect to borrowing on a tax-exempt basis for capital improvements, which are so absolutely essential to universities, especially in the age of big science.

It also provides for the repeal of restrictions on the deductibility of gifts of appreciated property such as art to museums and securities and land to universities and other nonprofit institutions. This is of immense importance to all institutions that depend on private philanthropy, such as education, the arts, and indeed health and other matters.

These are somewhat obscure provisions but are absolutely essential to the well-being of an indispensable aspect of American life. I particularly want to thank the chairman, Senator BENTSEN, who has been invariably indulgent, and tolerant, and patient as we have pressed this matter since the tax legislation of 1986, 6 long years.

I want to thank him in particular. I am sure Rice University does the same.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, a bill of this kind is complicated; it has a lot of language in it, a lot of exceptions, difficult, challenging. I do not think any Member of the Senate will be able to deal with it on his own or her own, as the case may be.

But I have two staff members, Michele Barnhagen and Pam Banks, who have given me service and help above and beyond the call of duty, and I want to say publicly how grateful I am for them being with me not only on Saturday but throughout the consideration of this bill. They have been of inestimable value.

And to the manager of the bill, the majority leader, and manager on the other side of the aisle, I say thank you for their courtesies. In handling a matter of this kind sometimes there are situations where we cannot agree, but I appreciate the courtesies and graciousness with which the matter has been handled by all parties. I thank the Senators.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I commend all who contributed to the progress of this legislation and, in particular, the distinguished chairman of the Senate Finance Committee, who has devoted so much time and effort to this, and also the manager on the Republican side, Senator PACKWOOD, who is not present now but I think he deserves to be mentioned, as well as Senator CHAFEE currently acting as the manager.

I am advised there are no further amendments.

Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the committee substitute.

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

Without objection, amendment No. 3231 is withdrawn.

The amendment (No. 3231) was withdrawn.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on final passage of this legislation, H.R. 11, occur without any intervening action or debate and notwithstanding the provisions of rule XXII at 5 p.m. on Tuesday, September 29.

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

## EXTENSION FOR AUTHORIZATION OF OFFICIAL MAIL

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of S. 3279, a bill introduced earlier today to extend the authorization of use of official mail in the location and recovery of missing children; that the bill be deemed read three times and passed; and the motion to reconsider be laid on the table; and a statement by Senator METZENBAUM be printed in the RECORD.

Mr. METZENBAUM. Mr. President, I have today introduced legislation to reauthorize the provision of the Missing Children Assistance Act of 1984, which permits Government mailings to contain pictures of missing children. That provision, which I authored as an amendment in 1985, expires at the end of this year.

As a parent, I know of nothing more frightening than the disappearance of a young child. A family that has lost a child needs somewhere to turn for help. They need to know that every conceivable effort is being made to find their lost child.

The original 1984 legislation established the National Center for Missing and Exploited Children [NCMEC] to provide research, collect data, and to help locate missing kids.

Since 1984, the Center has been a leader in helping to find these missing children. Over the past 8 years, they have received 550,793 calls to their national toll-free hotline; 82,158 of those calls were made by people who had seen a photo of a missing child posted on an envelope, or a shopping bag, or a milk carton.

Mr. President, the effectiveness of placing a child's picture where it can be seen by the public has been documented.

The National Center for Missing and Exploited Children reports that the use of missing children photos on Senate mail produces approximately 20 to 30 leads per photo.

From 1985 to the first quarter of 1992, NCMEC featured 1,427 different missing children; 196 of those kids were recovered as a direct result of photos.

On June 25 of this year the Senate Committee on Rules and Administration submitted a report to assess the effectiveness of the amendment I authored which permitted the pictures on congressional mailings. The report recommended that the legislation be reauthorized for an additional 5 years.

According to the report, the Senate Service Department mailed about 293,386,612 self-mailers and envelopes with missing children photos over the past 5 years.

The additional cost of adding a picture to these self-mailers and envelopes was approximately $6.97 per 100,000 pieces mailed. That is peanuts. The total cost was $20,449 for the entire 5-year period.

Mr. President, this bill follows the recommendations of the Senate Rules Committee. It reauthorizes the Government missing children mailing program for an additional 5 years, and requests the Committee on Rules and Administration to submit another report on the results of the program 6 months prior to expiration in 1997.

Again, Mr. President, I can think of no greater loss than to lose a child—to have a child there one day and gone the next—with no word or warning. It is a terrible experience that no parent or grandparent should have to go through.

I hope my colleagues will support this worthy and vital legislation. I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 3279), was deemed to have been read three times and passed, is as follows:

S. 3279

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF AUTHORIZATION OF USE OF OFFICIAL MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN.**

The Act entitled "An Act to amend title 3, United States Code, to authorize the use of penalty and franked mail in efforts relating to the location and recovery of missing children", approved August 9, 1985 (39 U.S.C. 3220 note; Public Law 99-87) is amended—

(1) in section 3(a) by striking out "June 30, 1992" and inserting in lieu thereof "June 30, 1997"; and

(2) in section 5 by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1997".

## MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

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

## WELCOME TO THE WORLD ADDISON WEENING

Mr. JEFFORDS. Mr. President, like many of my colleagues, I find myself unable to make commitments back home due to today's session of the Senate. But I doubt that many of my colleagues are missing so happy an occasion as I am.

For today is the "Welcome to the World" party for Addison Joan Weening. While I am sorry that I cannot join Addison and her parents at her party, I did want to extend my best wishes across the miles that separate Washington, DC, and Bristol, VT.

Last winter, James and Keely Weening attended Vermont Educational Television's annual auction and cast the high bid for an hour of my time. Farsighted people, they were looking ahead to the party planned for the child they were expecting in midsummer.

Addison Weening was born on August 4, and named after the county that would be her home. Invitations went out soon thereafter, for a party at noon today.

I think Addison's parents had a wonderful idea and I am disappointed I could not join them and the 7-week-old Addison. With no offense intended toward my colleagues, I must say I would rather be there than here.

Although we are all a bit bleary-eyed from too many late nights spent working on the tax bill, I hope the Senate will join me in celebrating the entry into our world of an entirely new person—full of promise and potential. May we fulfill our trust and leave to her a better place.

Welcome to the world, Addison.

## HONORING FRANK STELLA

Mr. BRADLEY. Mr. President, a number of our colleagues recently had an opportunity to participate in a historic occasion at the home of our friend Sandy Greenberg. One of our country's greatest artists, my friend of 22 years Frank Stella, told us that the sculptural interpretation he had created of Sandy's variable speech control machine marked a major turning point in his career. I ask unanimous consent

to insert in the RECORD the remarks made that evening by Mr. METZENBAUM and myself as well as by Frank and Sandy.

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

REMARKS FROM EVENING HONORING FRANK STELLA

Mr. METZENBAUM. On behalf of the Greenbergs and the Stellas, I am delighted to welcome all of you here this evening to honor Frank Stella's sculptural interpretation of Sandy Greenberg's Variable Speech Control machine. There are many distinguished people in this audience, so I will introduce only a few. Let me begin with my colleagues in the United States Senate—Carl Levin, Jeff Bingaman, Paul Simon, Bob Kerrey, Tim Wirth and Bill Bradley. I see my former colleagues Secretaries Ed Muskie and Bill Brock, Congressman Jim Leach, the next Governor of Virginia Mary Sue Terry and Ambassador Sol Linowitz. Finally, will you all join me in a round of applause for that wonderful and magnificent retired Justice of the United States Supreme Court William Brennan.

You all know Bill Bradley. He has a fantastic reputation throughout the country but the fact is that he's not nearly as smart as people think he is. Senator Bradley made a name for himself as a basketball player at a time when Congress was held in high esteem and basketball players did not get paid very much. So now he's in the Senate when nobody has a high regard for members of Congress and basketball players make $20 million per year.

Bad timing aside, of course, I hold Senator Bradley in the highest regard. He has done exceptional work in the Senate. He charts his own course and then fights for it. Not only has Bill distinguished himself in the fields of finance and international relations, but he had identified racial divisiveness as a major national concern long before Los Angeles and has made a series of important and eloquent speeches on the subject which provide a framework of leadership for the country to embrace. It is a measure of the breadth of his interests and the depth of his character that both Frank Stella and Sandy Greenberg call him friend.

Mr. BRADLEY. Thank you very much Howard. The way you were going, I was going to say, "Welcome to the fundraiser." The fact is that Howard was right on target when he talked about my basketball career, because the primary thing which brings Frank, Sandy and me together is basketball. Let me explain.

I have known Frank Stella for 22 years. He used to come to Knicks games whenever the Boston Celtics were in town. Though he was already a world famous artist, he still asked me for free tickets. Each player was given three tickets to each home game and I would give him two of them. He would arrive in the players' seats surrounded by the families of all the other players—and then he would root for the Celtics. It took a long time for me to live that down with my teammates.

Sandy and Sue have a wonderful daughter Kathryn who attends the same school as our daughter Theresa Anne. Each year, that school has an auction and every parent is asked to do what he can, so I auction off a three on three basketball game. I agree to play with whoever buys the game; they can arrange the teams any way they want. One year the person who bought the game was Sandy Greenberg. I had known Sandy and Sue for many years, of course, and I assumed he had bought the game for some of his friends or business associates. When I got to the gym, I was told that I would be playing on one team and the other team would be Jimmy and Paul, the Greenberg's sons, and Sandy and that my job was to guard Sandy. And the person said, but you know he's blind. I replied that I've seen a lot of referees like that! But I've never seen a player quite like that. Sandy stuck to me like glue; he covered me like a rug. He actually shot. Actually, he shot a little bit better than the Bullets did this year. It's been a long friendship with both of them and I'm really honored to stand here tonight.

Frank Stella, as everyone knows, is one of those artistic talents that occasionally comes along in the life of a nation. From the aluminum paintings of the early '60's through to all of the other work—the Diderot series, the Brazilian series—he has created a body of work of historic proportions. And he is someone whose work is really affected by his life. He got fascinated with bird watching and we got the Exotic Bird and the Indian Bird works. He got interested in car racing and we got the Circuits series. And beyond that he is someone who has a mind—a mind that can express itself not only in form but in language. A few years ago he gave a series of lectures which have been published by Harvard University Press. When you read those, they give you some sense of the mind that has produced this great art. It's quite an honor to have such talent in our presence.

Sandy, of course, is one of those incredible human beings. If you mention a field, Sandy has been there. Academics: Columbia, Harvard, Oxford—you missed one, Sandy. Government: advisor to Presidents, mostly, but not exclusively, Democrats. Business: health care, computers and telecommunications. Philanthropy: He is there for his synagogue and for the State of Israel and for other charitable causes. But the thing that I think most of when I think of Sandy Greenberg is his commitment to his family—to Sue and to Kathryn, Paul and Jim. And that came through to me most clearly a couple of years ago at Kathryn's Bat Mitzvah when Sandy spoke as a loving father giving advice and expressing that love to Kathryn in the presence of all those who were there. It was a very, very special moment. For me, when I think of Sandy and of Frank, I think of two people both in search of excellence, both competitive, both caring. And, I am honored and pleased to say, both my friends.

Mr. METZENBAUM. Thank you Bill. After listening to your remarks, I guess I better explain why I, a nonbasketball player, am standing here tonight. My wife Shirley, Sue Sandy and I have been friends for many years. Over that period, Sandy told me about the Variable Speech Control machine he had invented and its capacity electronically to speed up recorded speech without distortion. One day, Sandy said he would like to have in his home an artistic interpretation of his invention; he asked my view of the artist who could best do that. And I had no difficulty in responding very promptly. There is only one person in this country who really ought to create this piece of art for you. I don't know whether he will do it. But I said that for a period of years Frank Stella had become known for the strength of his pieces, for the constructions that he has done, for the brilliance that he has put into his art. Whether he would be willing to create a special piece for Sandy and Sue Greenberg I wasn't sure but I was going to ask. I knew Frank Stella and his wonderful wife, Harriet. I talked with Frank on the telephone and I was there when Sandy spoke with him thereafter. And I remember Sandy telling me about his visit to Frank's studio and how he had gone through and how Frank walked with him and Sandy felt each of the pieces and came to know them by touch. And out of that there developed the magnificent piece of art which is here this evening.

Frank Stella is not only unquestionably one of the world's greatest artists, exhibited in every major museum in the world, but he is a committed and concerned human being. I don't know all the involvements he has had but I know that he has been personally involved with respect to the special arts for the disadvantaged, for those who are not able to perform wholly but who are able to participate in the art world.

FRANK STELLA. I want to thank everyone, especially Sandy. Let me say right at the beginning that I'm not a Senator so I won't be speaking very long. It was very nice the way Howard put it as though it were a question, would I do it for Sandy. But you know the question for me was really a very different question. It's would I be able to do it. When someone asks you to do something, it's not so obvious actually that you can do it. And, I know when people are asking they're always assuming the person who is being asked has the ability to do what they're asking for. But doubt looms large in the minds of people who have to create things and what Sandy asked for was something I really had never done before and it didn't seem like there would be any way to work it in. And I think that working it in held me back in some way and I didn't do what Sandy asked me to do—I didn't make something that I normally do and put what Sandy gave me in it. I tried to find a way of working around what Sandy made and work it into the way I work rather than work it into something that I make. So what you see behind me here is really a work in process or something that happened in the process of coming together. And what's really interesting about it is that I'm not sure about what the merit of the piece might be or how it will end up or anything like that, but I do know that in a strange way and in a way that I never anticipated, it turned out to be for me to be very, very important. I probably made this three or four years ago and it is hard for me to believe but almost everything that I do now, almost all the major pieces I am making took off from this piece. I work a lot with aluminum and poured metal now. I really did come off the wall for Sandy and actually I'm managing to stay off the wall.

Senator METZENBAUM. Our host and hostess this evening, Sandy and Sue. What can I say about them that you don't already know. I don't know any couple that is so universally liked and loved as the two of them. And Sandy is unique. He's absolutely unique. He has time to do everything. He is kind, considerate. I spent a week in the hospital. Other than my family, nobody called me more often than did Sandy. And in every instance as I've known this man, when you ask him about something, he knew it. The wealth of information at his fingertips is unbelievable. But his kindness, his compassion and his love for his fellow man and woman is unique. He is a very special kind of human being. He's an extremely good friend of Shirley's and mine, Sandy Greenberg.

SANDY GREENBERG. I am delighted to welcome you all to our home to join in honoring a man whose creative accomplishments will endure as long as mankind possesses an ar-

tistic memory, one of the great talents of this century, Mr. Frank Stella. Let me begin by thanking five remarkable people without whom this celebration could not have taken place. Two extraordinary public servants, my dear friends, Howard Metzenbaum and Bill Bradley, who is also my basketball adversary. And another artist of legendary proportions, my college roommate and lifelong friend, Arthur Garfunkel and two indomitable women—Frank's wife, Harriet and my beloved wife, Sue.

As a teenager growing up in Buffalo, and I know you will find this hard to believe—I not only knew about "modern" or "abstract" art; I loved it. In its struggle to find the heart of the matter, to tear apart the surfaces of things to figure out what made them tick, this new art seemed to me squarely within America's long and noble tradition of insatiable curiosity. I'm willing to wager that Frank Stella as a young man had the same penchant for exploring the inner meaning of things to find their real guts that drove the young Henry Ford—no lover of modern art, he—to take apart watches and put them back together, just to see what made them work.

As many of you know, I lost most of my vision as an undergraduate. The blind do not have the luxury of dwelling on the surface of things. We have to find out very fast how the world is really put together. In a remarkable way, the memory of the bright colors and shapes of abstract art have been not only a great spirit solace for me but also an inspiration. When I returned to my studies, I encountered many frustrations as a result of my new handicap—perhaps the worst was the limitation imposed on my ability to absorb information. My quest to make the endless spools of audiotape turn faster taught me that the existing technology to help the blind needed to be reconceived. Like the abstract artist, of course, before I could give expression to such a new concept I had to grope for vital truths that for years lay maddeningly just beyond my reach. The prototype and the letters patent which you see at the heart of Frank's work emerged—after much pain—in this creative process.

I did not need to spell out any of this for Frank Stella. He has himself stared down too many valleys of blindness and scaled too many mountains of exhilaration to have needed my tongue-tied explanations. His sculpture, for me, captures both the hard edges of human struggle and the limitless opportunity of technology to make our lives better. Its celebration of creativity reaffirms the centrality of curiosity both to invention and to art. Frank, Sue, and I thank you for your sensitivity and your inspiration.

## U.S. OFFICE OF SPECIAL COUNSEL AUTHORIZATION

The text of the bill (S. 2853) to authorize appropriations of the U.S. Office of Special Counsel, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

S. 2853

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION OF APPROPRIATIONS.**

Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, and 1995".

**SEC. 2. OFFICE OF SPECIAL COUNSEL.**

Chapter 12 of title 5, United States Code, is amended—

(1) in section 1211(b) by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.";

(2) in section 1212(g)—

(A) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(B) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any";

(3) in section 1214(b)(2)—

(A) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(B) by inserting before subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(C) by inserting after subparagraph (D) (as redesignated by subparagraph (A) of this paragraph) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person submitting the allegation of a prohibited personnel practice.";

(4) in section 1218 by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,";

(5) in section 1221(d) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence."; and

(6) in section 1221(g)—

(A) in paragraph (1), by striking out "and any other reasonable costs incurred" and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant."; and

(B) in paragraph (2), by striking out "and any other reasonable costs incurred," and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant,".

**SEC. 3. PROHIBITED PERSONNEL PRACTICES.**

(a) DEFINITION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon; and

(2) by redesignating clause (x) as clause (xi) and inserting before such clause the following:

"(x) a decision to order psychiatric testing or examination; and".

(b) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

**SEC. 4. IMPLEMENTATION.**

No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include—

(1) a statement that the Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations; and

(2) detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

**SEC. 5. EFFECTIVE DATE.**

The provisions of this Act and the amendments made by this Act shall be effective on and after October 1, 1992.

## DISTRICT OF COLUMBIA SPOUSE EQUITY ACT AMENDMENTS

The text of the bill (S. 1880) to amend the District of Columbia Spouse Equity Act of 1988, as passed by the Senate on September 25, 1992, is as follows:

S. 1880

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the District of Columbia Spouse Equity Act of 1988, effective March 16, 1988 (D. C. Law 7-214; D. C. Code, section 1-3001 et seq.) is amended—

(1) in section 2 (section 1-3001) by striking the period at the end thereof and inserting ", or an officer, member, or retiree of the Unit-

ed States Park Police Force, or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4–607 et seq. of the D. C. Code) applies.";

(2) in section 3(1) (section 1–3002(a)) by striking "a District" and inserting "an"; and

(3) in section 3(2) (section 1–3002(b)) by striking the period at the end thereof and inserting "or an officer, member, or retiree of the United States Park Police Force or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4–607 et seq. of the D. C. Code) applies.".

## PROMOTING THE USE OF BICYCLE SAFETY HELMETS

The text of the bill (S. 3096) to establish a grant program under the Administrator of the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by children under the age of 16, as passed by the Senate on September 25, 1992, is as follows:

S. 3096

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

FINDINGS

SECTION 1. The Congress finds that—

(1) 90 million Americans ride bicycles and 20 million ride a bicycle more than once a week;

(2) between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that were treated in hospital emergency rooms;

(3) 41 percent of bicycle-related head injury deaths and 76 percent of bicycle-related head injuries occurred among American children under age 15;

(4) deaths and injuries from bicycle accidents cost society $7.6 billion annually; and a child suffering from a head injury, on average, will cost society $4.5 million over the child's lifetime;

(5) universal use of bicycle helmets in the United States would have prevented 2,600 deaths from head injuries and 757,000 injuries; and

(6) only 5 percent of children in the Nation who ride bicycles wear helmets.

ESTABLISHMENT OF PROGRAM

SEC. 2. The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 3, make grants to States and State political subdivisions for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

PURPOSES FOR GRANTS

SEC. 3. A grant made under section 2 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

STANDARDS

SEC. 4. (a) IN GENERAL.—Bicycle helmets manufactured 60 days or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4–1984".

(2) The Snell Memorial Foundation standard designated as "B–90".

(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

(d) FAILURE TO MEET STANDARD.—A bicycle helmut that does not conform to an interim standard or final standard as required under subsection (a) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For the National Highway Traffic Safety Administration to carry out the grant program authorized by this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.

DEFINITION

SEC. 6. In this Act, the term "approved bicycle helmut" means a bicycle helmut that meets—

(1) any interim standard described in section 4(b), pending establishment of a final standard under section 4(c); and

(2) the final standard, once it is established under section 4(c).

## VETERANS' EMPLOYMENT AND TRAINING ACT

The text of the bill (S. 2515) to authorize the establishment of job training programs for unemployed veterans and persons who have been recently separated from the Armed Forces, to pay certain assistance and benefits to employers of such veterans and to such veterans to defray certain costs relating to the provision of such training, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

S. 2515

*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' Employment and Training Act of 1992".

**SEC. 2. PURPOSE.**

The purpose of this Act is to address the problem of severe and often continuing unemployment among veterans by providing incentives to certain employers to permit such employers to defray the costs of training veterans (including veterans who have been recently separated from an Armed Force as a result of the current reduction in the size of the Armed Forces) and to encourage such employers to employ and train such veterans in stable and permanent positions of employment for which significant training is required.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) The term "Secretary" means the Secretary of Labor.

(2) The terms "veteran", "Armed Forces", "compensation", "service-connected", "State", and "active military, naval, or air service" have the meanings given such terms in paragraphs (2), (10), (13), (16), (20), and (24) of section 101 of title 38, United States Code, respectively.

**SEC. 4. AUTHORITY TO CARRY OUT PROGRAMS.**

(a) IN GENERAL.—In accordance with the provisions of this Act, the Secretary shall assist eligible veterans in obtaining employment with eligible employers in permanent and stable positions of employment that require significant training. Assistance shall be provided under this Act through—

(1) the payment of training assistance to employers who employ and train eligible veterans in such positions to assist such employers in defraying the costs of such training; and

(2) the provision to such veterans of training benefits and appropriate counseling to assist such veterans in receiving such training.

(b) ASSISTANCE IN CARRYING OUT PROGRAM.—The Secretary shall carry out that Secretary's responsibilities under this Act through the Assistant Secretary of Labor for Veterans' Employment and Training referred to in section 4102A of title 38, United States Code.

**SEC. 5. ELIGIBILITY OF VETERANS FOR PARTICIPATION IN JOB TRAINING PROGRAMS.**

(a) IN GENERAL.—A veteran may participate in a job training program under this Act if—

(1) the veteran is eligible for such participation under subsection (b);

(2) the veteran submits to the Secretary an application for a certificate of eligibility for participation in the program under subsection (c); and

(3) the Secretary issues such a certificate to the veteran under subsection (d).

(b) ELIGIBILITY.—(1) A veteran eligible to participate in a job training program is any veteran unemployed at the time the veteran submits an application for a certificate of eligibility under subsection (c) who—

(A) has not been employed on a full-time basis during at least 10 of the 15 weeks immediately preceding the date of the veteran's commencement of participation in the program; or

(B) was separated from active military, naval, or air service not more than 10 weeks before the commencement of such participation.

(2) For purposes of paragraph (1), the term "veteran" means a veteran who—

(A) performed service in the active military, naval, or air service for a period of more than 90 days; or

(B) was discharged or released therefrom for a service-connected disability.

(3) For the purposes of paragraph (1), a veteran shall not be considered to be employed during any period of part-time or temporary employment (as determined under regulations prescribed by the Secretary).

(c) APPLICATION FOR CERTIFICATE OF ELIGIBILITY.—(1) A veteran who desires to participate in a job training program under this Act shall submit to the Secretary an application for a certificate of eligibility for participation in such a program. Such an application shall—

(A) include a statement by the veteran that the veteran meets the criteria for eligibility referred to in subsection (b); and

(B) contain such other information as the Secretary shall prescribe.

(2) The Secretary shall prescribe the form of an application under this subsection.

(d) CERTIFICATE OF ELIGIBILITY.—(1) Subject to paragraph (2), the Secretary shall issue to each veteran who meets the eligibility requirements referred to in subsection (b) and who submits an application for a certificate of eligibility under subsection (c) a certificate of eligibility for participation in a job training program under this Act.

(2) The Secretary may withhold the issuance of a certificate of eligibility under this subsection to any veteran if the Secretary determines that it is necessary to limit the number of veterans who participant in job training programs under this Act by reason of a lack of funds to carry out such programs.

(e) APPEAL OF DENIAL OF CERTIFICATE.—The Secretary shall permit each veteran who is not issued a certificate of eligibility under subsection (d) (other than a veteran who is not issued such a certificate by reason of paragraph (2) of that subsection) to challenge in a hearing before the Secretary the failure of the Secretary to issue the certificate. The Secretary shall prescribe procedures with respect to the initiation and conduct of hearings under this subsection.

(f) PERIOD FOR COMMENCEMENT OF PARTICIPATION UNDER CERTIFICATE.—A veteran who is issued a certificate of eligibility for participation in a job training program under this section shall commence participation in such a program not more than 90 days after the date of the issuance of the certificate. The date on which a certificate is furnished to a veteran shall be stated on the certificate.

(g) RENEWAL OF CERTIFICATE.—A veteran may apply for a renewal of a certificate of eligibility for participation in a job training program (including a renewal of a renewed certificate). The application for the renewal of any such certificate shall be treated as an initial application for such a certificate under this section.

**SEC. 6. EMPLOYER JOB TRAINING PROGRAMS.**

(a) IN GENERAL.—Job training shall be provided to veterans under this Act by eligible employers through job training programs that meet the requirements of this section.

(b) ELIGIBLE EMPLOYERS.—An employer is eligible to provide job training to veterans through a job training program under this Act if, as determined by the Secretary, the employer intends to provide such training in a field of employment providing the reasonable probability of stable, long-term employment.

(c) REQUIREMENTS OF JOB TRAINING PROGRAMS.—Except as provided in subsection (d) and subject to subsections (f) and (g), in carrying out a job training program under this Act, an employer shall agree as follows:

(1) To identify a stable and permanent position of employment of the employer—

(A) in which there is a vacancy at the time of the identification;

(B) that requires an employee with significant training; and

(C) for which the employer is willing to provide such training.

(2) To devise a training program of such period and having such content, training materials, and instructors as are necessary to provide an employee with such training.

(3) To employ and train in the position on a full-time basis a veteran who—

(A) has been issued a certificate of eligibility for participation in such a program under section 5(d); and

(B) is not already qualified for employment in that position by reason of prior training or experience.

(4) To provide the veteran with such training for a period that is not longer than the period customarily required by similar employers in the community of the employer, if any, to provide similar training to the employees of such employers.

(5) During such employment and training, to provide the veteran with compensation and other benefits that are similar to the compensation and other benefits provided by the employer to non-veteran employees during such training.

(6) Unless intervening circumstances have made it economically impracticable for the employer to do so, to employ the veteran in that position upon the veteran's completion of the program.

(d) RESTRICTIONS ON EMPLOYMENT POSITIONS.—An employer may not employ a veteran in a job training program under this Act if—

(1) the training is for a position of employment—

(A) that consists of seasonal, intermittent, or temporary employment;

(B) for which the primary pay is commissions;

(C) that includes political or religious activities; or

(D) in any department, agency, instrumentality, or branch of the Federal Government (including the United States Postal Service or the Postal Rate Commission);

(2) the training under the program will not be carried out in the United States; or

(3) the employment of the veteran during the training—

(A) will result in the displacement (including any reduction in hours of non-overtime work, wages, or employment benefits or other partial displacement) of employees currently employed by the employer; or

(B) will be in a position of employment—

(i) while any other employee of the employer is currently laid off from the position or a substantially similar position; or

(ii) for which there is a vacancy as a result of the employer's reduction of the workforce of the employer (including the termination of any regular employee) for the purpose of employing the veteran under the program.

(e) JOB TRAINING THROUGH EDUCATION.—An eligible employer may provide job training to veterans under this Act, in whole or in part, by permitting such veterans to pursue or enroll in programs of education that—

(1) are offered by educational institutions that meet the requirements of chapter 36 of title 38, United States Code; and

(2) do not violate any provision of that chapter.

(f) LIMITATIONS ON TRAINING PERIODS.—(1) Except as provided in paragraph (2), an employer shall provide a period of training under a job training program under this Act of not less than six months or more than two years.

(2) An employer may provide a period of training under a job training program of three months to six months if the Secretary determines that a program of training of that period will satisfy the purposes of a job training program under this Act.

(g) ADDITIONAL REQUIREMENTS.—The Secretary may prescribe such additional requirements with respect to job training programs under this section as the Secretary determines are necessary to carry out the purposes of this Act.

**SEC. 7. APPROVAL OF EMPLOYER JOB TRAINING PROGRAMS.**

(a) IN GENERAL.—The Secretary shall approve each job training program established by an employer under this Act. The Secretary shall approve such programs in accordance with this section.

(b) SUBMITTAL OF APPLICATION FOR APPROVAL.—An employer who intends to carry out a job training program under this Act shall submit to the Secretary an application for approval of that program. The application for approval shall contain the following:

(1) A statement that the employer is an eligible employer under section 6(b).

(2) A statement that the proposed job training program of the employer meets the requirements for such programs established in section 6, together with such documentation to support that statement as the Secretary may prescribe.

(3) A statement of—

(A) the total number of hours of participation required of a veteran under the program;

(B) the number of weeks that the veteran will participate in the program; and

(C) the starting wages (and other compensation) of the veteran under the program.

(4) A description of—

(A) the training objective of the program; and

(B) the training content of the program (including the intent, if any, of the employer to permit the veteran to pursue or enroll in a program of education under section 6(e)).

(5) In the event that training under the program will include a veteran's pursuit of or enrollment in a program of education under section 6(e), a statement of the manner in which such training will include the program of education.

(c) APPROVAL OF THE SECRETARY.—The Secretary shall approve a job training program of an employer under this section if the Secretary determines from the information contained in the application for approval submitted by the employer under subsection (b) that the program meets the requirements for such a program under this Act.

(d) APPRENTICESHIP PROGRAMS.—(1) Except as provided in paragraph (2), a program of apprenticeship or other on-job training that meets the requirements of section 3687 of title 38, United States Code, shall be considered to be a job training program that is approved by the Secretary under this section.

(2) A program of apprenticeship or other on-job training shall not be considered to be a job training program that is approved by the Secretary under this subsection if it provides for apprenticeship or training for any position of employment referred to in section 6(d)(1).

(e) DISCONTINUATION OF APPROVAL.—(1) The Secretary may discontinue approval of any job training program previously approved under subsection (c) if the Secretary determines that—

(A) the program no longer meets the requirements of an approved program under this section; or

(B) the rate of the successful completion of the program by participating veterans is unacceptably low (when compared with rates of such completion for other such programs) by reason of deficiencies in the program.

(2) In making the determination referred to in paragraph (1)(B), the Secretary shall take into account any information that the Secretary considers to be relevant, including—

(A) the information collected in the quarterly assessment referred to in section 17(b) relating to—

(i) the number of veterans who are provided with job training under this Act;

(ii) the number of veterans who receive counseling in connection with job training provided under this Act;

(iii) the number of veterans who complete such training; and

(iv) in the case of veterans who do not complete such training, the reasons for such lack of completion; and

(B) data compiled through employer compliance surveys.

(3) A job training program that is disapproved by the Secretary under paragraph (1) shall not be an approved job training program for the purposes of this section.

(4)(A) Upon disapproving a job training program under this subsection, the Secretary shall notify the employer carrying out the program and any veterans participating in the program of that disapproval. The notice shall contain—

(i) a statement of the reasons for the Secretary's disapproval of the program; and

(ii) a statement that the employer and such veterans are entitled to challenge the disapproval in a hearing before the Secretary.

(B) Any notice under this paragraph shall be by certified or registered letter, return receipt requested.

(5)(A) The Secretary may reapprove any program that the Secretary has disapproved under paragraph (1) if the Secretary determines that the employer has taken appropriate remedial actions with respect to those matters upon which the Secretary based the disapproval.

(B) A program that is reapproved under this paragraph shall be considered to be a job training program that is approved by the Secretary for the purposes of this section.

**SEC. 8. PAYMENTS OF TRAINING ASSISTANCE AND OTHER ASSISTANCE TO EMPLOYERS.**

(a) IN GENERAL.—The Secretary shall pay training assistance to employers who provide job training to veterans in job training programs under this Act.

(b) AMOUNT OF PAYMENT.—(1) Subject to paragraph (2), for each payment period referred to in subsection (c) during which an employer provides job training to a veteran under this Act, the Secretary shall pay training assistance to the employer of the veteran on behalf of the veteran in an amount equal to 50 percent of the product of—

(A) the rate of the starting hourly wage (excluding overtime or premium pay) of the veteran under the program; and

(B) the number of hours worked by the veteran during the period.

(2) The amount paid to an employer on behalf of a veteran in any year under paragraph (1) may not exceed $7,500.

(c) PAYMENT PERIOD.—(1) Except as provided in paragraph (2), the Secretary shall pay training assistance to employers under this section on a quarterly basis.

(2) The Secretary may pay training assistance to an employer on a monthly basis if the Secretary determines (pursuant to regulations prescribed by the Secretary) that the number of employees of the employer is such that the payment of assistance on a quarterly basis would be burdensome to the employer.

(d) APPROVAL OF SECRETARY.—The Secretary shall pay training assistance to an employer for a quarterly or monthly period (as the case may be) after—

(1) the Secretary receives the certifications with respect to that period referred to in subsection (e); and

(2) the Secretary approves of the payment of such assistance for that period based upon such certifications.

(e) CERTIFICATIONS RELATING TO PAYMENT.—(1) Subject to paragraph (2), with respect to each period for which an employer seeks payment of training assistance on behalf of a veteran under this section, the following shall be submitted to the Secretary:

(A) By the employer, a certification—

(i) that the employer provided the veteran with training during the period;

(ii) of the number of hours worked by the veteran in the program during the period; and

(iii) that the progress of the veteran in the training program during the period was satisfactory.

(B) By the veteran, a certification that the veteran was provided with job training by the employer in a job training program on a full-time basis during the period.

(2) The first certification submitted to the Secretary by an employer under paragraph (1)(A) and by a veteran under paragraph (1)(B) shall include—

(A) the date on which the veteran commenced participation in the job training program; and

(B) the rate of the starting hourly wage of the veteran under the program.

(f) PAYMENT OF ASSISTANCE TO ACCOMMODATE DISABLED VETERANS.—(1) The Secretary shall pay accommodation assistance to employers who provide job training to disabled veterans under this Act to permit such employers to make modifications of the facilities or equipment of such employers on behalf of such veterans to facilitate the training and employment of such veterans.

(2) To be eligible for the payment of accommodation assistance for modifications of facilities or equipment made on behalf of a disabled veteran under this subsection, an employer shall submit to the Secretary—

(A) prior to the commencement of such modifications, a detailed proposal relating to such modifications, including the estimated cost of such modifications; and

(B) upon the completion of such modifications, any documentation that the Secretary may require that indicates (i) that the employer has completed such modifications, and (ii) the final cost of such modifications.

(3)(A) The Secretary shall—

(i) approve each proposal for modifications submitted to the Secretary under paragraph (2)(A); and

(ii) approve the cost of each modification indicated in the documentation submitted to the Secretary under paragraph (2)(B).

(B) The Secretary shall approve the cost of a modification of facilities or equipment under paragraph (A)(ii) only if the Secretary determines that the cost of the modification is reasonable.

(4) The Secretary shall pay as accommodation assistance under this subsection the cost of any modification approved by the Secretary under paragraph (3)(A)(ii). The total amount of accommodation assistance payable to an employer for modifications made by the employer on behalf of a disabled veteran under this subsection may not exceed $3,000.

(5) Each employer paid accommodation assistance under this subsection shall permit the Secretary reasonable access to the facilities and equipment of the employer to enable the Secretary to ensure that the employer has made the modifications of such facilities and equipment in accordance with the proposals and documentation submitted to the Secretary by the employer.

(6) For the purposes of this subsection, modifications of facilities or equipment on behalf of a disabled veteran shall include any improvement, alteration, or purchase of facilities or equipment that is necessary to make the facilities or equipment readily accessible to, and usable by, a disabled veteran.

(g) OVERPAYMENT.—(1) A payment of training assistance (other than accommodation assistance under subsection (f)) to an employer on behalf of a veteran for a quarterly or monthly period, as the case may be, shall be an overpayment of assistance for that period if the Secretary determines that—

(A) during that period, the employer—

(i) has failed to comply in material respect with the requirements of this Act; and

(ii) is responsible for such failure;

(B) the payment is based upon the willful submittal by the employer to the Secretary in a certification under subsection (d)(1)(A) of material information that the employer knows to be false;

(C) the payment is based upon the willful or negligent submittal by the veteran to the employer of any material information that is false;

(D) the payment is based upon the willful or negligent submittal by the veteran to the Secretary in an application for a certificate of eligibility for participation in the program under section 5(b) of any material information that is false; or

(E) the payment is based upon the willful or negligent submittal by the veteran to the Secretary in a certification under subsection (d)(1)(B) of any material information that is false.

(2)(A) An employer shall be liable to the United States for an overpayment referred to in subparagraph (A) or (B) of paragraph (1).

(B) A veteran shall be liable to the United States for an overpayment referred to in subparagraph (C), (D), or (E) of that paragraph.

(h) RECOVERY OF OVERPAYMENT.—(1) Except as provided in paragraph (2), the Secretary may recover an overpayment under this section by any method that is provided by law for the recovery of amounts owing to the Federal Government. Any overpayment recovered shall be credited to the account relating to the funds available to carry out this Act. If there is no such account, any overpayment recovered shall be covered into the Treasury.

(2)(A) The Secretary may waive the recovery of an overpayment under this section, in whole or in part, in accordance with the authority given to the Secretary of Veterans Affairs under section 5302 of title 38, United States Code.

(B) The Secretary shall establish in the Department of Labor appropriate administra-

tive procedures for the review of a denial of an application for waiver of recovery under subparagraph (A).

**SEC. 9. TRAINING BENEFITS FOR VETERANS.**

(a) IN GENERAL.—The Secretary shall pay training benefits to veterans who participate in job training programs under this Act. The purpose of such training benefits is to assist such veterans in defraying the cost of work-related expenses. The total amount of training benefits payable to a veteran by the Secretary under this section may not exceed $1,500.

(b) APPROVAL OF SECRETARY.—A veteran shall be entitled to the payment of a training benefit for work-related expenses incurred by the veteran if—

(1) the veteran submits to the Secretary an application for payment (in such form and including such documentation as the Secretary may require) stating the amount of any such expenses incurred by the veteran as a result of the veteran's participation in a job training program under this Act; and

(2) the Secretary approves the payment of a training benefit with respect to such expenses.

(c) ADMINISTRATION OF PAYMENT.—The Secretary shall prescribe the manner of the payment of training benefits under this section, including the period and frequency of the payment of benefits to veterans and the means of ensuring the prompt payment of benefits to veterans by the Secretary.

(d) OVERPAYMENT.—(1) A veteran shall not be entitled to the payment of a training benefit under this section if the veteran terminates participation in a job training program prior to the scheduled date of the completion of the program by the veteran.

(2) In the event that the Secretary determines that a veteran has been paid a training benefit to which the veteran was not entitled, the amount of the benefit paid to the veteran to which the veteran was not so entitled shall constitute an overpayment of the benefit and a liability of the veteran to the United States.

(e) RECOVERY OF OVERPAYMENT.—(1) Subject to paragraph (2), the United States may recover an overpayment of a training benefit from a veteran by any method that is provided by law for the recovery of amounts owing to the Federal Government.

(2)(A) The Secretary may waive the recovery of an overpayment of a training benefit, in whole or in part, in accordance with the authority given to the Secretary of Veterans Affairs under section 5302 of title 38, United States Code.

(B) The Secretary shall establish in the Department of Labor appropriate administrative procedures for the review of a denial of an application for waiver of recovery under subparagraph (A).

(f) DEFINITION.—For the purposes of this section, the term "work-related expenses", in the case of a veteran who participates in a job training program under this Act, means any expenses incurred by the veteran by reason of such participation, including expenses for the purchase of work clothes and tools, car or bus fare, and the provision of child care.

**SEC. 10. PROHIBITION ON COMMENCEMENT OF JOB TRAINING PROGRAMS UNDER CERTAIN CIRCUMSTANCES.**

(a) IN GENERAL.—An employer may not provide a veteran with job training under a job training program if the Secretary determines that, on the date on which the employer intends to commence providing such training, there are insufficient funds available under this Act to carry out the program.

(b) COMMENCEMENT OF PROGRAM.—Each employer shall—

(1) notify the Secretary of the employer's intention to commence furnishing job training to a veteran under a job training program not less than 14 days before such commencement; and

(2) commence the program in accordance with that notification unless the Secretary advises the employer within the 14-day period referred to in paragraph (1) that there are insufficient funds available under this Act to carry out the program.

(c) ADDITIONAL REQUIREMENT RELATING TO COMMENCEMENT OF PROGRAM.—An employer who provides a veteran with job training in a job training program under this Act shall provide the veteran with a copy of the application for approval of the program submitted by the employer to the Secretary under section 7(b).

**SEC. 11. INVESTIGATION AND MONITORING OF PROGRAMS BY THE SECRETARY OF LABOR.**

(a) IN GENERAL.—(1) The Secretary shall ensure that the job training programs carried out under this Act (including the activities of veterans and employers under such programs) are carried out in accordance with the provisions of this Act. In ensuring such compliance, the Secretary may investigate any matter relating to a job training program (including any application of a veteran for a certificate of eligibility under section 5(c), any employer application for approval of a program under section 7(b), and any program records under subsection (b) of this section).

(2) In conducting an investigation under paragraph (1), the Secretary may enter onto the premises at which an employer furnishes job training under a job training program and question employees of the employer (including any veterans who are provided with job training under the program) with respect to the program.

(b) PROGRAM RECORDS.—(1) Each employer that provides job training in a job training program under this Act shall maintain such records of the provision of such training as are necessary for the Secretary to monitor the provision of such training. The Secretary shall prescribe the form and content of such records.

(2) The Secretary shall have reasonable access to the records maintained by employers under paragraph (1) for the purpose of monitoring the provision of job training by such employers.

**SEC. 12. COORDINATION WITH OTHER JOB TRAINING ASSISTANCE PROGRAMS.**

(a) PROHIBITION ON RECEIPT OF CREDIT OR ASSISTANCE FOR VETERANS PARTICIPATING IN CERTAIN OTHER PROGRAMS.—(1) An employer may not be paid training assistance on behalf of a veteran under section 8 during the period referred to in paragraph (3) if, during that period, the employer is allowed a tax credit or is paid an allowance for that veteran under any of the following provisions of law:

(A) Chapter 30, 31, 32, 35, or 36 of title 38, United States Code.

(B) Chapter 106 of title 10, United States Code.

(C) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(D) Section 44B of the Internal Revenue Code of 1986 (relating to tax credits for employment of certain new employees).

(2) A veteran may not be paid training benefits under section 9 during the period referred to in paragraph (3) if, during that period, the veteran is paid or receives a benefit or allowance under any of the provisions of law referred to in subparagraphs (A) through (D) of paragraph (1).

(3) The period referred to in this paragraph is the period beginning on the date on which an employer begins to provide job training to a veteran under a job training program under this Act and ending on the date on which the employer ceases to provide such training to the veteran under the program.

(b) PROHIBITION ON RECEIPT OF CREDIT OR ASSISTANCE FOR VETERANS WHO COMPLETE CERTAIN PROGRAMS.—An employer may not be paid training assistance under section 8 on behalf of a veteran, and a veteran may not be paid benefits under section 9, for participation of the veteran in a job training program under this Act if the veteran has completed a program of job training under this Act or under the Veterans' Job Training Act (29 U.S.C. 1721 note).

**SEC. 13. COUNSELING AND CASE-MANAGEMENT SERVICES.**

(a) AUTHORITY TO PROVIDE COUNSELING SERVICES.—(1)(A) The Secretary and the Secretary of Veterans Affairs may provide the employment counseling services and employment guidance services referred to in subparagraph (B) to veterans who are issued certificates of eligibility for participation in a job training program under section 5(d).

(B) The counseling services and guidance services authorized under this paragraph are services relating to the development of any job-readiness skills and services relating to any other assistance that a veteran may require (as determined by the Secretary and the Secretary of Veterans Affairs) to enable the veteran to participate in a job training program under this Act, including assistance relating to the resolution of difficulties encountered by the veteran in finding, applying for, and participating in a job training program that is suitable to the veteran.

(2) In the event that the Secretary and the Secretary of Veterans Affairs exercise the authority to provide counseling services to veterans under this subsection, the Secretary and the Secretary of Veterans Affairs shall—

(A) upon the issuance to a veteran of a certificate of eligibility for participation in a job training program under section 5(d), advise veterans of the availability of such counseling services;

(B) urge such veterans to request such services; and

(C) provide such services to veterans upon the request of such veterans.

(3) To the extent practicable, the Secretary and the Secretary of Veterans Affairs shall coordinate the provision of counseling services and guidance services under this subsection, if any, with counseling services provided under sections 1712A, 3697A, 4103A, 4104, 7723, and 7724 of title 38, United States Code, and section 1144 of title 10, United States Code.

(b) CASE MANAGEMENT SERVICES.—(1) The Secretary shall establish a program of case management services under which the Secretary shall provide the services described in paragraph (2) to the veterans referred to in paragraph (3) and (4).

(2) The Secretary shall provide case management services under this subsection as follows:

(A) By assigning to each veteran eligible for such services under this subsection a case manager who is a disabled veterans' outreach program specialist appointed pursuant to section 4103A of title 38, United States Code.

(B) By ensuring that the veteran has a personal interview with the outreach specialist

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not later than 60 days after the date on which the veteran commences participation in a job training program under this Act.

(C) By ensuring that the veteran meets personally with the outreach specialist on a monthly basis for the purpose of—

(i) preventing the unnecessary voluntary or involuntary termination of the veteran from the program;

(ii) referring the veteran to appropriate counseling, if necessary;

(iii) following the veteran's progress in the program;

(iv) facilitating the veteran's successful completion of the program; and

(v) assessing the veteran's participation in and, as applicable, completion of the program.

(3)(A) Except as provided in subparagraph (B), the Secretary shall provide case management services under this subsection to any veteran who—

(i) is issued a certificate of eligibility for participation in a job training program under this Act; and

(ii) notifies the Secretary that the veteran has identified an employer with which the veteran will participate in such a program.

(B) The Secretary is not required to provide a veteran with case management services referred to in paragraph (2)(C) if—

(i) on the basis of a personal interview between the veteran and an outreach specialist under paragraph (2)(B), the outreach specialist recommends that the veteran does not need such services and the Secretary ratifies that recommendation; or

(ii) the Secretary determines that—

(I) the employer of the veteran under the program has an appropriate and effective employee assistance program that is available to the veteran; or

(II) the rate of successful completion of the program by veterans on the date the veteran intends to commence participation in the program (either during the course of the entire program or during the calendar year preceding that date) is more than 60 percent.

(4) Notwithstanding paragraph (3), the Secretary, in consultation with the Secretary of Veterans Affairs, shall provide case management services under this section to each veteran—

(A) whose participation in a job training program is terminated (either voluntarily or involuntarily); and

(B) who applies to the Secretary for a certificate of eligibility for participation in another such program under section 5(c).

(c) COUNSELING INFORMATION.—(1) The Secretary and the Secretary of Veterans Affairs shall carry out a program to provide to veterans who participate in job training programs under this Act information relating to the availability and scope of the following:

(A) The counseling services and guidance services, if any, provided under subsection (a).

(B) The case management services, if any, provided under subsection (b).

(C) The supportive services and resources available to service-connected disabled veterans and veterans who are recently separated from military service under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.).

(D) Any additional counseling services, guidance services, and other support services and resources available to veterans through appropriate Federal, State, and local agencies.

(2) In order to facilitate the provision of services and information to veterans under paragraph (1), the Secretary and the Secretary of Veterans Affairs shall advise the veterans referred to in that paragraph of the availability, if any, of such services and information not later than the date upon which the Secretary issues a certificate of eligibility for participation in a job training program under section 5(d).

(d) PAYMENT FOR THE PROVISION OF COUNSELING AND OTHER SERVICES.—(1) Notwithstanding any other provision of law, the Secretary and the Secretary of Veterans Affairs may enter into contracts with appropriate entities or individuals for the provision by such entities or individuals of counseling services, guidance services, case management services, or other services under this section. Such contracts shall contain any terms or conditions that the Secretary and the Secretary of Veterans Affairs determine to be necessary to ensure the appropriate provision of such services and to protect the interests of the United States.

(2) The Secretary of Veterans Affairs may pay entities or individuals for the provision of services under paragraph (1) in accordance with the contracts entered into with such entities or individuals under that paragraph. Any such payments shall be made from the account relating to the funds available for readjustment benefits referred to in section 3104(a)(7)(B) of title 38, United States Code.

**SEC. 14. INFORMATION AND OUTREACH SERVICES.**

(a) INFORMATION AND OUTREACH SERVICES.—Subject to subsection (b), the Secretary and the Secretary of Veterans Affairs shall carry out a program of public information and outreach under which program the Secretary and the Secretary of Veterans Affairs shall—

(1) inform veterans of the job training programs (and other employment opportunities) provided for under—

(A) this Act;

(B) chapters 30, 31, 36, 41, and 42 of title 38, United States Code; and

(C) any other applicable provisions of law, as determined by the Secretary and the Secretary of Veterans Affairs;

(2) inform private businesses (including small businesses), appropriate public agencies and organizations, institutions of higher education, trade associations, and labor organizations of such training programs and employment opportunities; and

(3) promote the development of job training and employment opportunities for veterans by—

(A) encouraging employers to create job training programs under this Act;

(B) advising appropriate Federal departments and agencies of the authority provided for under this Act for the establishment of job training programs; and

(C) advising employers of the responsibilities of employers of veterans under chapters 41 and 42 of title 38, United States Code.

(b) COORDINATION OF PROGRAMS.—To the extent practicable, the Secretary and the Secretary of Veterans Affairs shall coordinate the provision of public information and outreach programs under this section with the provision of job counseling, placement, development, and other services under chapters 31, 36, 41, and 42 of title 38, United States Code, and with the provision of similar services offered by other Federal, State and local agencies and organizations.

**SEC. 15. ADDITIONAL ASSISTANCE AND RESOURCES.**

(a) PERSONNEL.—(1) The Secretary of Veterans Affairs shall make available in regional and local offices of the Department of Veterans Affairs, and the Secretary shall make available in regional and local offices of the Department of Labor, such personnel as are necessary to carry out the provisions of this Act.

(2) In carrying out the responsibilities of the Secretary under this Act, the Secretary shall, to the maximum extent practicable, make use of the services of Directors for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training appointed under section 4103 of title 38, United States Code, disabled veterans' outreach program specialists appointed pursuant to section 4103A of that title, and local veterans' employment representatives appointed under section 4104 of that title.

(b) ASSISTANCE OF SMALL BUSINESS ADMINISTRATION.—(1) The Secretary shall obtain from the Administrator of the Small Business Administration a list of small businesses that are suitable businesses (as determined by the Administrator in consultation with the Secretary) to carry out job training programs under this Act.

(2) The Administrator of the Small Business Administration shall update the list referred to in paragraph (1) on a regular basis (as determined by the Secretary).

(c) USE OF RESOURCES AVAILABLE UNDER JOB TRAINING PARTNERSHIP ACT.—(1) To facilitate the carrying out of job training programs under this Act, the Secretary shall, to the extent practicable, use such resources as are available to assist service-connected disabled veterans and veterans who are recently separated from military service under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.).

(2) The Secretary shall assist veterans who are denied certificates of eligibility for participation in job training programs under section 5 in taking advantage of any opportunities available to such veterans under any programs carried out pursuant to title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or under any other similar programs that are carried out with funds made available to the Secretary.

**SEC. 16. PILOT PROGRAM OF EMPLOYMENT SERVICES FOR HOMELESS VETERANS.**

(a) IN GENERAL.—(1) In each of fiscal years 1993 through 1997, the Secretary shall award grants to the entities referred to in paragraph (2) with which such entities shall provide employment assistance (including counseling and other assistance) to homeless veterans. The Secretary shall prescribe procedures for the award of such grants.

(2) An entity entitled to a grant under this subsection is any nonprofit entity determined by the Secretary (under regulations prescribed by the Secretary) to have special expertise or experience in the provision of employment assistance to homeless individuals or in other employment matters relating to such individuals.

(b) FUNDING LIMITATION.—In carrying out this section, the Secretary may use not more than $5,000,000 of the funds obligated or otherwise made available to the Department of Labor in each of fiscal years 1993 through 1997 pursuant to the authorization of appropriations referred to in section 21.

**SEC. 17. PROGRAM ASSESSMENT.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall evaluate on an annual basis the status of the programs authorized and carried out under this Act to ensure that such programs satisfy the purposes of this Act.

(b) QUARTERLY ASSESSMENT.—The Secretary shall collect on a quarterly basis from appropriate officials of State employment services or offices and the Directors of Veter-

ans' Employment and Training of each State in which job training programs are carried out under this Act the following information:

(1) The number of veterans in the State who were certified for participation in such programs under section 5(d) during the previous calendar quarter.

(2) The number of such veterans who participated in such programs during that period.

(3) The number of such veterans who completed participation in such programs during that period.

(4) The number of veterans who terminated (either voluntarily or involuntarily) participation in such programs, and the reasons for each such termination.

(5) Such other information as the Secretary, in consultation with the Secretary of Veterans Affairs, determines to be appropriate for the purposes of ensuring the effective administration of the programs.

**SEC. 18. REPORTS.**

(a) PRELIMINARY REPORT.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the committees referred to in paragraph (2) a report on—

(A) the actions taken by the Secretary to implement this Act; and

(B) the estimated administrative costs of carrying out this Act.

(2) The Secretary shall submit the report under paragraph (1) to the following:

(A) The Committee on Veterans' Affairs of the Senate.

(B) The Committee on Labor and Human Resources of the Senate.

(C) The Committee on Veterans' Affairs of the House of Representatives.

(D) The Committee on Education and Labor of the House of Representatives.

(b) ANNUAL REPORTS.—Not later than March 31, 1994, and on an annual basis thereafter, the Secretary shall submit to the committees referred to in subsection (a)(2) a report containing the following:

(1) The general assessment of the Secretary under section 17(a) of the programs carried out under this Act during the calendar year preceding the report.

(2) The quarterly assessments carried out by the Secretary under section 17(b) for each of the four calendar quarters preceding the date of the report.

(3) A statement by the Secretary relating to—

(A) amounts paid by the Secretary to employers and veterans under this Act during such calendar quarters;

(B) any obligation of funds in connection with the implementation of this Act that is projected by the Secretary for the calendar year following the report;

(C) a general assessment by the Secretary of the adequacy and timeliness of payments made by the Secretary under this Act; and

(D) such other information as the Secretary considers appropriate relating to the process of making payments to employers and veterans under this Act.

(4) Any additional assessments, matters, or recommendations that the Secretary or the Secretary of Veterans Affairs consider appropriate.

**SEC. 19. TERMINATION OF PROGRAM.**

An employer may not be paid training assistance on behalf of a veteran under section 8 and a veteran may not be paid training benefits under section 9 with respect to any training provided to the veteran in a job training program under this Act if the training is provided after September 30, 1997.

**SEC. 20. CONFORMING AMENDMENTS TO TITLE 38.**

(a) UNDER CHAPTER 31.—Section 3104(a)(7)(A) of title 38, United States Code, is amended by striking out "section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note)" and inserting in lieu thereof "section 13(e) of the Veterans' Employment and Training Act of 1992".

(b) UNDER CHAPTER 41.—Chapter 41 of such title is amended—

(1) in section 4102A(b)(3)(B), by striking out "the Veterans' Job Training Act (29 U.S.C. 1721 note);" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992;";

(2) in section 4103(c)(1)(A), by striking out "the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note);" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992;";

(3) in section 4103A(c)—

(A) in paragraph (6), by striking out "the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note))" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992)"; and

(B) in paragraph (10), by striking out "section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)." and inserting in lieu thereof "section 13(b) of the Veterans' Employment and Training Act of 1992.";

(4) in section 4104(b)(12)—

(A) by striking out "section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note)," and inserting in lieu thereof "section 5(d) of the Veterans' Employment and Training Act of 1992,"; and

(B) by inserting "in job training programs" after "for participation";

(5) in section 4104A(a)(2)(C), by striking out "section 14(b)(1)(A) of the Veterans' Job Training Act (29 U.S.C. 1721 note)," and inserting in lieu thereof "section 13(b) of the Veterans' Employment and Training Act of 1992,";

(6) in section 4105(b), by striking out "the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)" and inserting in lieu thereof "the Veterans' Employment and Training Act of 1992"; and

(7) in section 4108(b), by striking out "the Secretary of Veterans Affairs under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note)." and inserting in lieu thereof "the Secretary of Labor under section 7(c) of the Veterans' Employment and Training Act of 1992.".

**SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the Department of Labor for the purpose of carrying out the provisions of this Act the following:

(A) $75,000,000 in fiscal year 1993.

(B) $100,000,000 in fiscal year 1994.

(C) $125,000,000 in fiscal year 1995.

(D) $125,000,000 in fiscal year 1996.

(E) $100,000,000 in fiscal year 1997.

(2) Amounts appropriated pursuant to this section shall remain available until September 30, 1997, without fiscal year limitation.

(b) LIMITATION ON OBLIGATION FOR ADMINISTRATIVE COSTS.—(1) Not more than 10 percent of the amount appropriated or otherwise made available to the Department of Labor in a fiscal year pursuant to the authorization of appropriations for that fiscal year under subsection (a) may be obligated for administrative activities under this Act.

(2) Not more than an amount equal to 50 percent of the amount available under this subsection for administrative activities may be obligated for administrative activities of the Department of Labor.

(3) The Secretary may use funds authorized by paragraph (1) to be obligated for administrative activities under this Act to provide, by grant or contract, for the conduct of such activities by entities outside of the Department of Labor.

## JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

The text of the bill (H.R. 5149) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 5194) entitled "An Act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause and insert:

***SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.***

*(a) FINDINGS.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—*

*(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;*

*(2) by inserting after paragraph (1) the following new paragraphs:*

*"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;*

*"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";*

*(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";*

*(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);*

*(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and*

*(6) by adding at the end the following new paragraphs:*

*"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and*

*"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".*

*(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";*

*(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";*

*(C) by striking "and" at the end of paragraph (7);*

*(D) by redesignating paragraph (8) as paragraph (9);*

*(E) by inserting after paragraph (7) the following new paragraph:*

*"(8) to strengthen families in which juvenile delinquency has been a problem;";*

(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and

(G) by adding at the end the following new paragraphs:

"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and

"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and

(2) in subsection (b) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families".

(c) DEFINITIONS.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (18) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(19) the term 'eligible children' means persons who live in high crime areas, as shall be reasonably defined by the Administrator by regulation, and who are less than 18 years of age and older than a minimum age established by the Administrator by regulation;

"(20) the term 'law enforcement officer' means an employee of a Federal, State, or local law enforcement agency who is engaged in law enforcement or crime prevention;

"(21) the term 'local educational agency' has the meaning stated in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2897(12)); and

"(22) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.".

**SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.**

(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 (b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".

(b) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in subsection (a)(1) by inserting "the Commissioner of Immigration and Naturalization," after "Community Services,"; and

(2) in subsection (c)—

(A) in the first sentence by inserting "(in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles," after "delinquency programs"; and

(B) in the second sentence by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles" before the period.

(c) FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS.—

(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended—

(A) in the first sentence by striking "existence" and inserting "experience"; and

(B) in the second sentence by striking "section 291(c)(1)" and inserting "section 299(c)(1)".

(2) ALLOCATION.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation";

(B) in subsection (a)—

(i) in paragraph (2)(A)—

(I) by striking "part D" and inserting "parts D and E";

(II) by inserting "or such greater amount, up to $390,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and

(III) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";

(ii) in paragraph (2)(B)—

(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a) (1) and (3)" after "$400,000,"; and

(II) by inserting ", or such greater amount, up to $90,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and

(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and

(C) in the second sentence of subsection (c) by striking "7½ per centum" and inserting "10 percent".

(3) STATE PLANS.—(A) Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(i) in subsection (a)—

(I) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part E. The State";

(II) in paragraph (1) by striking "section 291(c)(1)" and inserting "section 299(c)(1)";

(III) by amending paragraph (3) to read as follows:

"(3) provide for an advisory group, which—

"(A) shall consist of not less than 15 and not more than 30 members appointed by the chief executive officer of the State—

"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;

"(ii) which members include—

"(I) at least 1 locally elected official representing general purpose local government;

"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, and counsel for children and youth;

"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

"(V) volunteers who work with delinquents or potential delinquents;

"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

"(v) at least 3 members who have been under the jurisdiction of the juvenile justice system at some time;

"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

"(D) shall, consistent with this title—

"(i) advise the State agency designated under paragraph (1) and its supervisory board;

"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and

"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

"(E) may, consistent with this title—

"(i) advise on State supervisory board and local criminal justice advisory board composition;

"(ii) review progress and accomplishments of projects funded under the State plan.";

(IV) in paragraph (9) by inserting "recreation," after "special education,";

(V) by amending paragraph (10) to read as follows:

"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement: crisis intervention, shelter, and after-care; and

"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with parents and other family member to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities

aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other youth, provided equitably regardless of sex, race, or family income, designed to encourage them to remain in school, including—

"(i) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(ii) assistance in making the transition to the world of work and self-sufficiency; and

"(iii) alternatives to suspension and expulsion;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults; and

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration.";

(VI) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";

(VII) in paragraph (14)—

(aa) by striking "1993" and inserting "1997"; and

(bb) by striking "areas which" and all that follows through the end of the paragraph and inserting "areas that are in compliance with paragraph (13) and—

"(A)(i) are outside a Standard Metropolitan Statistical Area; and

"(ii) have no existing acceptable alternative placement available;

"(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or

"(C) are located where conditions of safety exist (such as severely adverse weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;"; and

(VIII) by amending paragraph (16) to read as follows:

"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and

(IX) in paragraph (17) by striking "and maintain the family units" and inserting "the families";

(ii) by amending subsection (c) to read as follows:

"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) If a State fails to comply with the requirements of paragraph (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—

"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and

"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—

"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(ii) the Administrator determines, in the discretion of the Administrator, that the State—

"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and

"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(iii) in subsection (d)—

(I) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";

(II) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and

(III) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".

(B) Notwithstanding the amendment made by subparagraph (A)(i)(IX), section 223(c)(3) of the Juvenile Justice and Deliquency Prevention Act of 1974 (42 U.S.C. 5633(c)(3)), as in effect on the day prior to the date of enactment of this Act, shall remain in effect to the extent that it provides the Administrator authority to grant a waiver with respect to a fiscal year prior to a fiscal year beginning before January 1, 1993.

(d) NATIONAL PROGRAMS.—

(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—

(A) by inserting "recreation and park personnel," after "special education personnel"; and

(B) by inserting "prosecutors and defense attorneys," after "probation personnel,".

(2) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(A) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";

(B) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults;

"(4) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;";

(D) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (B), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities";

(E) by striking "and" at the end of paragraph (10), as redesignated by subparagraph (B);

(F) by striking the period at the end of paragraph (11), as redesignated by subparagraph (B), and inserting "; and"; and

(G) by adding at the end the following new paragraphs:

"(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families; and

"(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles.".

(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654(3)) is amended by inserting "prosecutors and defense attorneys," after "judges".

(4) ESTABLISHMENT OF TRAINING PROGRAM.—Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659) is amended in the first sentence by inserting ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles" before the period.

(5) CURRICULUM FOR TRAINING PROGRAM.—Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended in the second sentence by inserting "and shall include training designed to prevent juveniles from committing hate crimes" before the period.

(6) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—

(A) by striking "(a) Not later than 1 year after the date" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date";

(B) by striking "(1) to review" and inserting "(A) to review";

(C) by striking "(A) conditions" and inserting "(i) conditions";

(D) by striking "(B) the extent" and inserting "(ii) the extent";

(E) by striking "(2) to make" and inserting "(B) to make";

(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";

(G) by striking "(A) how" and inserting "(i) how";

(H) by striking "(B) the amount" and inserting "(ii) the amount";

(I) by striking "(C) the extent" and inserting "(iii) the extent";

(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";

(K) by striking "(B) For purposes" and inserting "(ii) for purposes";

(L) by striking "(c) Not later" and inserting "(3) Not later";

(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and

(N) by adding at the end the following new subsection:

"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to juveniles waived to adult court that reviews—

"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of gender bias within State juvenile justice systems that reviews—

"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

"(ii) the appropriateness of the placement and conditions of confinement for females; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban areas in the United States.

"(B) Such urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) With respect to each urban area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(D) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (C).

"(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

"(i) conduct a study described in subparagraph (B); and

"(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

"(B) The study required by subparagraph (A) shall assess—

"(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

"(I) the motives for committing hate crimes;

"(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

"(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

"(ii) the characteristics of hate crimes committed by juveniles, including—

"(I) the types of hate crimes committed;

"(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

"(III) the number of persons who participated with juveniles in committing such crimes;

"(IV) the types of law enforcement investigations conducted with respect to such crimes;

"(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(VI) the penalties imposed on such juveniles as a result of such proceedings; and

"(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

"(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

"(II) the motivation behind the attack.".

(7) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)) is amended—

(A) in subsection (a)—

(i) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(ii) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile jus-

tice system, including services that provide for the appointment of special advocates by courts for such juveniles."; and

(iv) by adding at the end the following new paragraph:

"(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—

"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

"(i) addressing the specific prejudicial attitude of each offender;

"(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and

"(iii) educating the offender about the importance of tolerance in our society; and

"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration.";

and

(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,".

(e) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that apply to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists or if the Congress specifically sets aside funds for a program as an appropriation."; and

(2) by striking subparagraph (C).

(f) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended—

(1) in the heading by inserting ", INTERVENTION," after "PREVENTION";

(2) in section 281—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11);

(B) by striking "SEC. 281. The Administrator" and all that follows through "purposes:" and inserting the following:

"SEC. 281. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in the prevention of youth gangs through programs that are designed to carry out any of the following purposes:

"(1) To target elementary school students, with the purpose of steering students away from gang involvement.

"(2) To provide individual and family crisis intervention and counseling to students and their families who are particularly at risk of gang involvement, including cooperation with social service, welfare, and health care programs as needed.

"(3) To develop and support community education about gangs and gang activity with the intent of involving the community in dealing with the problems associated with gangs.

"(4) To include a special location within a school or housing project for program activities.

"(b) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities in crisis intervention and rehabilitation of youth gangs through programs that are designed to carry out any of the following purposes:

"(1) Establish or expand programs that hold juveniles accountable for their delinquent conduct and provide juvenile court judges with a range of dispositional options that recognize the needs of juvenile offenders, such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and secure community-based intensive service facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation that assist juveniles to develop into productive, law-abiding adults.";

(C) in paragraph (8) of subsection (b), as designated by subparagraph (B), by inserting "recreation," after "local education,"; and

(D) by adding at the end the following new subsection:

"(c)(1) The Administrator shall, by making grants to and entering into contracts with public and private agencies, institutions, and local educational agencies, establish and support programs and activities for the purpose of implementing mentoring programs that—

"(A) are designed to link children in high crime areas with adult law enforcement officers and other responsible adults; and

"(B) are intended to achieve one or more of the following goals:

"(i) Provide general guidance to eligible children.

"(ii) Promote personal and social responsibility among such children.

"(iii) Discourage their use of illegal drugs, violence and dangerous weapons, and other criminal activity.

"(iv) Discourage involvement in gangs.

"(v) Enhance eligible children's ability to function effectively in, and benefit from, elementary and secondary education.

"(vi) Encourage eligible children's participation in community service.

"(2) The Administrator, after consultation with the Secretary of Health and Human Services and the Secretary of Education, shall promulgate regulations to implement this subsection.

"(3) The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

"(4)(A) Grants awarded pursuant to this subsection shall be used to implement mentoring programs, including—

"(i) hiring of mentoring coordinators and support staff;

"(ii) recruitment, screening, and training of adult mentors;

"(iii) reimbursement of mentors for reasonable incidental expenditures directly associated with mentoring; and

"(iv) such other purposes as the Administrator may reasonably prescribe by regulation.

"(B) Grants awarded pursuant to this subsection shall not be used—

"(i) to directly compensate mentors, except as provided pursuant to subparagraph (A)(iii);

"(ii) to obtain educational or other materials or equipment which would otherwise be used in the ordinary course of the grantee's operations;

"(iii) to support litigation of any kind; or

"(iv) for any other purpose reasonably prohibited by the Administrator by regulation.

"(5) The Administrator shall select grant recipients under this subsection based on the following:

"(A) The quality of the mentoring plan, including—

"(i) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(ii) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan.

"(B) The capability of the applicant to effectively implement the mentoring plan."; and

(3) in section 282—

(A) in subsection (b)—

(i) in paragraph (1) by inserting "(a), (b), or (c)" after "section 281";

(ii) by striking "and" at the end of paragraph (7);

(iii) by striking the period at the end of paragraph (8) and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(9) in the case of an application for assistance under section 281(c) include a specific plan for implementing a mentoring program, including—

"(A) the method by which mentors and mentees will be recruited;

"(B) the method by which prospective mentors will be screened;

"(C) the training that will be provided to mentors;

"(D) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(E) a description of the extent to which parents, teachers, community-based organizations, and the local community have participated in the design and implementation of the mentoring plan.".

(g) ADDITIONAL PARTS IN TITLE II.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by redesignating part E as part I;

(2) by redesignating sections 291, 292, 293, 294, 295, and 296 as sections 299, 299A, 299B, 299C, 299D, and 299E, respectively; and

(3) by inserting after part D the following new parts:

"PART E—STATE CHALLENGE ACTIVITIES

"ESTABLISHMENT OF PROGRAM

"SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222, in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'case review system' means a procedure for ensuring that—

"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

"(B) the status of each youth is reviewed periodically but not less frequently than once every 6 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 18 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

"(J) Developing and adopting policies to establish—

"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

"(ii) a statewide case review system.

"PART F—TREATMENT FOR JUVENILE OFFENDERS WHO ARE VICTIMS OF CHILD ABUSE OR NEGLECT

"DEFINITION

"SEC. 287. For the purposes of this part, the term 'juvenile' means a person who is less than 18 years of age.

"AUTHORITY TO MAKE GRANTS

"SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects that—

"(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

"(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

"(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

"(B) to facilitate their alternative placement; and

"(C) to prepare juveniles aged 16 years and older to live independently; and

"(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

"ADMINISTRATIVE REQUIREMENTS

"SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E.

"PRIORITY

"SEC. 287C. In making grants under section 287A, the Administrator—

"(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

"(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent for having committed offenses that are not serious crimes.

"PART G—BOOT CAMPS

"ESTABLISHMENT OF PROGRAM

"SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as "boot camps").

"(b) LOCATION.—(1) The boot camps shall be located on existing or closed military installations on sites to be chosen by the agencies in one or more States, or in other facilities designated by the agencies on such sites, after consultation with the Secretary of Defense, if appropriate, and the Administrator.

"(2) The Administrator shall—

"(A) try to achieve to the extent possible equitable geographic distribution in approving boot camp sites; and

"(B) give priority to grants where more than one State enters into formal cooperative arrangements to jointly administer a boot camp.

"(c) REGIMEN.—The boot camps shall provide—

"(1) a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training; and

"(2) remedial, special, and vocational education and treatment for substance abuse and other health and mental health problems.

"CAPACITY

"SEC. 289A. Each boot camp shall be designed to accommodate between 150 and 250 juveniles for such time as the grant recipient agency deems to be appropriate.

"ELIGIBILITY

"SEC. 289B. A person shall be eligible for assignment to a boot camp if he or she—

"(1) is considered to be a juvenile under the laws of the State of jurisdiction; and

"(2) has been adjudicated to be delinquent in the State of jurisdiction or, upon approval of the court, voluntarily agrees to the boot camp assignment without a delinquency adjudication.

"OPERATION

"SEC. 289C. To the maximum extent possible, a boot camp shall be operated and maintained by active or reserve military personnel, under the supervision of the grant recipient agency in accordance with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.).

"POST-RELEASE SUPERVISION

"SEC. 289D. A State that seeks to establish a boot camp, or participate in the joint administration of a boot camp, shall submit to the Administrator a plan describing—

"(1) the provisions that the State will make for the continued supervision of juveniles following release; and

"(2) provisions for educational and vocational training, drug or other counseling and treatment, and other support services.

"PART H—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

"SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the "Conference") in accordance with this part.

"(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 persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

"(4) to create a forum in which persons 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 part 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 part.

"(d) PRIOR STATE AND REGIONAL CONFERENCES.—

"(1) IN GENERAL.—Participants in a Conference and other interested persons and organizations may 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 part. State conferences shall elect delegates to the National Conferences.

"(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in

providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.

"CONFERENCE PARTICIPANTS

"SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with 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) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—

"(i) each Governor may appoint 1 delegate and 1 alternate;

"(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iv) the President may appoint 20 delegates and 5 alternates;

"(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and

"(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.

"(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.

"(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 from funds appropriated pursuant to this Act.

"(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.

"STAFF AND EXECUTIVE BRANCH

"SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be 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 that 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 may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.

"PLANNING AND ADMINISTRATION OF CONFERENCE

"SEC. 291C. (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) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—

"(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);

"(2) may enter into contracts and agreements with public agencies, private organizations, and academic institutions to assist in carrying out this part; and

"(3) shall prepare and provide background materials for use by participants in the Conference by participants in State and regional conferences.

"REPORTS

"SEC. 291D. (a) IN GENERAL.—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.

"(b) CONTENTS.—A report described in subsection (a)—

"(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and

"(2) shall be made available to the public.

"OVERSIGHT

"SEC. 291E. The Administrator 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.".

(h) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 299(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as redesignated by subsection (g), is amended to read as follows:

"(a)(1) To carry out the purposes of this title (other than parts D and E) there are authorized to be appropriated such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No funds may be appropriated to carry out part D or E of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D or E of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D or E of this title or title V or VI) for the preceding fiscal year.

"(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.

"(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—

"(i) $15,000,000 for fiscal year 1993; and

"(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.

"(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—

"(i) not less than 85 percent to make grants for treatment and transitional services;

"(ii) not to exceed 10 percent for grants for research; and

"(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.

"(5)(A) There are authorized to be appropriated to carry out part G such sums as are necessary for fiscal year 1993, to remain available until expended, of which—

"(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and

"(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.

"(B) Amounts appropriated under subparagraph (A) shall be in addition to any other amounts authorized to be appropriated to the Office of Juvenile Justice and Delinquency Prevention.

"(6)(A) There are authorized to be appropriated such sums are necessary for each National Conference and associated State and regional conferences under part H, to remain available until expended.

"(B) New spending authority or authority to enter into contracts under part H shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(C) No funds appropriated to carry out this Act shall be made available to carry out part H other than funds appropriated specifically for the purpose of conducting the Conference.

"(D) Any funds remaining unexpended at the termination of the Conference under part H, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.".

**SEC. 3. RUNAWAY AND HOMELESS YOUTH.**

(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) the number of youth who have become homeless or who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and may live on the street, leaving them at high risk for health and other serious problems;";

(2) by striking "and" at the end of paragraph (4); and

(3) by striking paragraph (5) and inserting the following new paragraphs:

"(5) runaway youth, homeless youth, and other street youth have a disproportionate share of health problems compared to the general adolescent population but lack access to health care;

"(6) increasingly, runaway youth, homeless youth, and other street youth in need of services have more serious emotional and behavioral problems and fewer resources and therefore may need access to longer periods of residential care, more intensive aftercare services, and other assistance;

"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;

"(8) to reconnect runaway youth, homeless youth, and other street youth to their communities, street-based services must be provided where they congregate;

"(9) home-based services are also needed to prevent youth from leaving home or developing more serious emotional and behavioral problems; and

"(10) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures.".

(b) AUTHORITY TO MAKE GRANTS.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5711) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary shall make grants to nonprofit private entities, combinations of such en-

*tities, and public entities to establish, renovate, and operate local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of such youth and their families. The centers shall serve as alternatives to the law enforcement, child welfare, mental health, and juvenile justice systems.";*

*(2) in subsection (b)—*

*(A) in paragraph (2)—*

*(i) by inserting "or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$75,000,"; and*

*(ii) by inserting ", or such greater amount, up to $45,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$30,000"; and*

*(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and*

*(3) by striking subsection (c).*

*(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—*

*(1) in subsection (a) by striking "facility providing" and inserting "project that provides"; and*

*(2) in subsection (b)—*

*(A) in paragraph (3) by striking "child's" and inserting "youth's" and striking "child" each place it appears and inserting "youth";*

*(B) in paragraph (4) by inserting "health and mental health care personnel," after "social service personnel,"; and*

*(C) in paragraph (6) by striking "children and family members which it serves," and inserting "children and family members that it serves, including youth that are not referred to out-of-home shelter services,".*

*(d) GRANTS FOR A NATIONAL COMMUNICATION SYSTEM.—Section 313(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712a(b)) is amended—*

*(1) in paragraph (1) by striking "1989 not less than $500,000" and inserting "1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment";*

*(2) in paragraph (2) by striking "1990 not less than $600,000" and inserting "1994 not less than $826,900"; and*

*(3) in paragraph (3) by striking "1991 and 1992 not less than $868,300" and inserting "1995 and 1996 not less than $911,700".*

*(e) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5716) is amended in the second sentence by striking "$150,000" and inserting "$250,000".*

*(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714–2(a)) is amended—*

*(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and*

*(2) in paragraph (13) by striking "and parent or legal guardian".*

*(g) STREET-BASED SERVICES AND COORDINATING ACTIVITIES.—Title III of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5701 et seq.) is amended—*

*(1) by striking sections 314, 315, and 365 and redesignating parts C and D as parts E and F, respectively; and*

*(2) by inserting after part B the following new parts:*

*"PART C—STREET-BASED SERVICES*

*"PURPOSE AND AUTHORITY; DEFINITIONS*

*"SEC. 325. (a) PURPOSE AND AUTHORITY.—The Secretary may make grants and provide technical assistance to public and nonprofit private entities and combinations of such entities to establish and operate street-based services to runaway youth, homeless youth, and other street youth.*

*"(b) DEFINITIONS.—For purposes of this part—*

*"(1) the term 'homeless youth' means a person—*

*"(A) who is not less than 10 years of age and not more than 21 years of age;*

*"(B) for whom it is not possible to live in a safe environment with a relative; and*

*"(C) who has no safe living arrangement as an alternative to living with a relative;*

*"(2) the term 'other street youth' means a person under the age of 21 who may be intermittently homeless and spends the majority of his or her time on the street, using it as a primary means of economic survival and socialization; and*

*"(3) the term 'street-based services' includes—*

*"(A) street-based crisis intervention and counseling;*

*"(B) information and referral for housing;*

*"(C) information and referral for transitional living and health care services; and*

*"(D) advocacy, education, and prevention services for—*

*"(i) alcohol and drug abuse;*

*"(ii) sexually transmitted diseases including HIV/AIDS infection; and*

*"(iii) physical and sexual assault.*

*"ELIGIBILITY*

*"SEC. 326. (a) PLAN AND AGREEMENT.—To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a street-based services project and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—*

*"(1) to identify and frequent areas in which runaway youth, homeless youth, and other street youth congregate, making contact and forming relationships with such youth;*

*"(2) to assess the problems and service needs of such youth and provide appropriate services or information and referral for these services;*

*"(3) to cause its staff to work in teams with on-street supervision or backup and off-street clinical supervision;*

*"(4) to cause its staff to—*

*"(A) develop referral relationships with agencies and organizations, including law enforcement, education, social service, vocational services, training, public welfare, legal assistance, and health and mental health care organizations; and*

*"(B) help integrate and coordinate such services for youth;*

*"(5) to submit to the Secretary an annual report that includes information regarding—*

*"(A) the activities carried out with funds under this part;*

*"(B) the achievements of the project under this part carried out by the applicant; and*

*"(C) statistical summaries describing the number and the characteristics of the youth who participated in the project in the year for which the report is submitted;*

*"(6) to implement such accounting procedures and fiscal control devices as the Secretary may require;*

*"(7) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;*

*"(8) to keep adequate statistical records profiling the youth that it serves and not to disclose the identity of individual runaway youth, homeless youth, or other street youth in reports or other documents based on such statistical records;*

*"(9) not to disclose records maintained on individual runaway youth, homeless youth, or other street youth without the consent of the individual youth to anyone; and*

*"(10) to provide to the Secretary such other information as the Secretary may reasonably require.*

*"(b) PRIORITY.—In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing direct services to runaway youth, homeless youth, or other street youth.*

*"PART D—COORDINATING ACTIVITIES*

*"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING*

*"SEC. 335. The Secretary shall make grants to State, regional and other nonprofit organizations and combinations of such organizations to provide technical assistance and training to eligible groups for the purpose of establishing and improving the operation of programs for runaway youth, homeless youth, and other street youth.*

*"GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS*

*"SEC. 336. (a) IN GENERAL.—The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth, homeless youth, and other street youth.*

*"(b) SPECIAL CONSIDERATION.—In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—*

*"(1) youth who repeatedly leave and remain away from their homes;*

*"(2) outreach to runaway youth, homeless youth, and other street youth;*

*"(3) skill-based HIV/AIDS prevention training for runaway and homeless youth and training for staff to work with such youth;*

*"(4) increasing access to health and mental health care and services for runaway and homeless youth;*

*"(5) increasing access to education for runaway and homeless youth;*

*"(6) staff training in—*

*"(A) the behavioral and emotional effects of sexual abuse and assault;*

*"(B) responding to youth who are showing effects of sexual abuse and assault; and*

*"(C) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized;*

*"(7) transportation of runaway and homeless youth, and other street youth in connection with services authorized to be provided under this part;*

*"(8) the special needs of runaway and homeless youth in rural areas;*

*"(9) the special needs of family host home programs for runaway youth, homeless youth, and other street youth;*

*"(10) transitional living programs for homeless youth; and*

*"(11) innovative methods of developing resources that enhance the establishment or operation of runaway youth, homeless youth, or other street youth centers.*

*"(c) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants that have knowledge of or experience in working with runaway and homeless youth.*

*"COORDINATION OF ACTIVITIES*

*"SEC. 337. With respect to matters relating to health, education, employment, and housing, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of other divisions of that department and other public and private entities and encourage coordination with other departments.".*

*(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended—*

*(1) in subsection (a)—*

(A) by inserting ", activities," after "status";

(B) by striking "part A," and inserting "parts A, B, C, D, and E,"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) plans for the next fiscal year.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "of this title there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992" and inserting "such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996"; and

(B) by adding at the end the following new paragraphs:

"(3) In the use of funds appropriated under paragraph (10) that are in excess of $38,000,000 but less than $42,600,000, priority shall be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000) if the appropriation were equal to or less than $38,000,000, for the purpose of allowing such programs to achieve higher performance standards, including—

"(A) increasing and retaining trained staff;

"(B) strengthening family reunification efforts;

"(C) improving aftercare services;

"(D) fostering better coordination of services with public and private entities;

"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and

"(F) improving data collection efforts.

"(4) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—

"(A) 50 percent shall be targeted at developing new programs in unserved or underserved communities; and

"(B) 50 percent shall be targeted at program enhancement activities described in paragraph (3).";

(2) in subsection (b)(1) by striking "of this title, there are authorized to be appropriated such sums as are necessary for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992." and inserting "there are authorized to be appropriated such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) There are authorized to be appropriated to carry out part C such sums as are necessary for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

**SEC. 4. MISSING CHILDREN.**

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal years 1993, 1994, 1995, and 1996".

**SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.**

(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

**"TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS**

**"SEC. 501. SHORT TITLE.**

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.

**"SEC. 502. FINDINGS.**

"The Congress finds that—

"(1) approximately 700,000 youth enter the juvenile justice system every year;

"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;

"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;

"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;

"(5) few Federal resources are dedicated to delinquency prevention; and

"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.

**"SEC. 503. DEFINITION.**

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

**"SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.**

"The Administrator shall—

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

**"SEC. 505. GRANTS FOR PREVENTION PROGRAMS.**

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

"(1) recreation services;

"(2) tutoring and remedial education;

"(3) assistance in the development of work awareness skills;

"(4) child and adolescent health and mental health services;

"(5) alcohol and substance abuse prevention services;

"(6) leadership development activities; and

"(7) the teaching that people are and should be held accountable for their actions.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end investment plan for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

"(5) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(6) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.

**"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.**

"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II.

**SEC. 6. CHILDREN'S ADVOCACY PROGRAM.**

(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and

(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:

"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".

(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—

(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and

(2) by inserting after section 211 the following new sections:

**"SEC. 212. DEFINITIONS.**

"For purposes of this subtitle—

"(1) the term 'Administrator' means the agency head designated under section 201(b) of the

Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);

"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;

"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;

"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).

**"SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.**

"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—

"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;

"(2) provide support for nonoffending family members;

"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and

"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—

"(A) establish regional children's advocacy program centers;

"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and

"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,

for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.

"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—

"(A) assist communities—

"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;

"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;

"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;

"(iv) in providing families with needed services and assisting them in regaining maximum functioning;

"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;

"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;

"(vii) in obtaining information useful for criminal and civil proceedings;

"(viii) in holding offenders accountable through improved prosecution of child abuse cases;

"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse thorough training; and

"(x) in enhancing community understanding of child abuse; and

"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.

"(c) OPERATION OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) SOLICITATION OF PROPOSALS.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.

"(2) MINIMUM QUALIFICATIONS.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:

"(A) A proven record in conducting activities of the kinds described in subsection (c).

"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.

"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.

"(D) Experience in serving as a center for training and education and as a resource facility.

"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.

"(3) PROPOSAL REQUIREMENTS.—

"(A) IN GENERAL.—A proposal submitted in response to the solicitation under paragraph (1) shall—

"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;

"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and

"(iii) state the annual cost of the proposal and a breakdown of those costs.

"(B) CONTENT OF MANAGEMENT PLAN.—A management plan described in paragraph (3)(A) shall—

"(i) outline the basic activities expected to be performed;

"(ii) describe the entities that will conduct the basic activities;

"(iii) establish the period of time over which the basic activities will take place; and

"(iv) define the overall program management and direction by—

"(I) identifying managerial, organizational, and administrative procedures and responsibilities;

"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and

"(III) providing sufficient rationale to support the costs of the plan.

"(4) SELECTION OF PROPOSALS.—

"(A) COMPETITIVE BASIS.—Proposals shall be selected under this section on a competitive basis.

"(B) CRITERIA.—The Administrator, in coordination with the Director, shall select proposals for funding that—

"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;

"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and

"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);

"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and

"(D) otherwise best carry out the purposes of this section.

"(4) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.

"(5) COORDINATION OF EFFORT.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.

"(d) REVIEW.—

"(1) EVALUATION OF REGIONAL CHILDREN'S ADVOCACY PROGRAM ACTIVITIES.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.

"(2) ANNUAL REPORT.—A grant recipient shall provide an annual report to the Administrator and the Director that—

"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and

"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.

"(3) DISCONTINUATION OF FUNDING.—

"(A) FAILURE TO IMPLEMENT PROGRAM ACTIVITIES.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.

"(B) SOLICITATION OF NEW PROPOSALS.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).

"(e) CHILDREN'S ADVOCACY ADVISORY BOARD.—

"(1) ESTABLISHMENT OF BOARD.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that

respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.

"(B) MEMBERSHIP.—(i) The board—

"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;

"(II) shall include at least 1 member from each of the 4 census regions; and

"(III) shall have members appointed for a term not to exceed 3 years.

"(ii) Members of the Board may be reappointed for successive terms.

"(2) REVIEW AND RECOMMENDATIONS.—

"(A) OBJECTIVES.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).

"(B) REVIEW.—The board shall annually—

"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and

"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.

"(3) RULES AND REGULATIONS.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.

"(f) REPORTING.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".

(c) LOCAL CHILDREN'S ADVOCACY PROGRAM.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—

(1) by amending the heading to read as follows:

**"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";**

(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";

(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and

(4) by adding at the end the following new subsection:

"(d) CONSULTATION WITH REGIONAL CHILDREN'S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".

(d) SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), is amended to read as follows:

**"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—

"(1) $20,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under sections 213 and 214.".

**SEC. 7. HEAD START TRAINING IMPROVEMENT.**

(a) PURPOSE.—It is the purpose of this section—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

(b) TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking "(2) training" and all that follows through the end of the subsection and inserting "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including—

"(A) specific goals and objectives for program improvement and continuing professional development;

"(B) a process for continuing input from the Head Start community; and

"(C) a strategy for delivering training and technical assistance; and

"(2) report on the approach developed under paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

**SEC. 8. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.**

(a) SPENDING OF FUNDS BY STATES.—Section 658J(c) of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858h(c)) is amended—

(1) by striking out "obligated" and inserting in lieu thereof "expended"; and

(2) by striking out "succeeding fiscal year" and inserting in lieu thereof "succeeding 3 fiscal years".

(b) PAYMENTS EXCLUDED FROM INCOME.—The Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858a et seq.) is amended by adding at the end thereof the following new section:

**"SEC. 658S. MISCELLANEOUS PROVISIONS.**

"Notwithstanding any other provision of law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTION IN CITATION.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking out "title IV" and inserting in lieu thereof "title VI".

(2) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858n) is amended—

(A) in paragraph (7), by striking out "4(b)" and inserting in lieu thereof "4(e)"; and

(B) in paragraph (14), by striking out "4(c)" and inserting in lieu thereof "4(l)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.

**SEC. 9. TECHNICAL AMENDMENT TO HEAD START ACT.**

(a) IN GENERAL.—Section 641(c)(1) of the Head Start Act (42 U.S.C. 9836(c)(1)) is amended by striking out "July 29, 1992" and inserting in lieu thereof "March 1, 1993".

EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment.

## VETERANS' EDUCATION ASSISTANCE AMENDMENTS

The text of the bill (H.R. 5087) to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes, as passed by the Senate on September 25, 1992, is as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 5087) entitled "An Act to amend title 38, United States Code, with respect to veterans' education assistance, 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 "Veterans' Readjustment Benefits Improvement Act of 1992".

### TITLE I—EDUCATIONAL ASSISTANCE PROGRAMS

**SEC. 101. INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.**

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) of title 38, United States Code, is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on September 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

**SEC. 102. ELIGIBILITY OF CERTAIN OFFICERS FOR EDUCATIONAL ASSISTANCE.**

(a) ACTIVE DUTY.—Section 3011(c)(2) of title 38, United States Code, is amended by inserting "but before October 1, 1992," after "December 31, 1976,".

(b) SELECTED RESERVE.—Section 3012(d)(2) of such title is amended by inserting "but before October 1, 1992," after "December 31, 1976,".

**SEC. 103. TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.**

(a) TREATMENT OF SERVICE.—Section 3011 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) For the purposes of this chapter, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in that paragraph.

"(2) This subsection applies to a member who—

"(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and

"(B) after such discharge or release, reenlists or re-enters on a period of active duty.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

**SEC. 104. TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.**

(a) TREATMENT.—Section 3011 of title 38, United States Code (as amended by section 103), is further amended by adding at the end the following new subsection:

"(f) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.

**SEC. 105. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.**

(a) ACTIVE DUTY.—Section 3011 of title 38, United States Code (as amended by section 104), is further amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

"(2) This subsection applies to a member who—

"(A) during an initial period of active duty, commences pursuit of a course of education—

"(i) at a service academy; or

"(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

"(B) fails to complete the course of education; and

"(C) re-enters on a period of active duty.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

**SEC. 106. EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS.**

(a) EDUCATIONAL ASSISTANCE.—Section 3015 of title 38, United States Code (as amended by section 101), is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) (as so amended) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (d) (as so redesignated), by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (c)"; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.

"(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—

"(A) whose initial obligated period of active duty is less than three years;

"(B) who, beginning on the date of the commencement of the person's initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and

"(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.".

(b) CONFORMING AMENDMENTS.—Such section 3015 (as so amended) is further amended—

(1) in subsection (a), by striking out "and (f)" and inserting in lieu thereof "(f), (g), and (h)"; and

(2) in subsection (b), by striking out "and (f)" and inserting in lieu thereof "(f), (g), and (h)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993.

**SEC. 107. CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM.**

(a) CLARIFICATION.—Section 3018(b)(3)(B) of title 38, United States Code, is amended—

(1) by striking out "or (iii)" and inserting in lieu thereof "(iii)"; and

(2) by adding before the semicolon at the end the following: ", or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.

**SEC. 108. EDUCATIONAL ASSISTANCE RATES FOR CERTAIN ACTIVE-DUTY MEMBERS.**

(a) RATES.—Subsection (a) of section 3032 of title 38, United States Code, is amended to read as follows:

"(a) The amount of the monthly educational assistance allowance payable to an individual entitled to educational assistance under this chapter who pursues a program of education on less than half-time basis is the amount determined under subsection (b) of this section.".

(b) ADVANCE PAYMENT.—Section 3680(d)(2) of title 38, United States Code, is amended by striking out the third sentence.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and apply to educational assistance paid for education or training pursued on or after that date.

**SEC. 109. USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING.**

(a) ACTIVE-DUTY PROGRAM.—Section 3032(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(b) SELECTED RESERVE PROGRAM.—Section 2131(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(c) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section

3231(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which a person may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the person's flight training.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 of title 10, United States Code, on or after the first day of the second month following the date of the enactment of this Act.

**SEC. 110. LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.**

Section 3485(a)(1) of title 38, United States Code, is amended in the third sentence—

(1) by striking out "40 per centum" and inserting in lieu thereof "40 percent"; and

(2) by inserting "(but not more than an amount equal to 50 times the applicable hourly minimum wage)" before the period at the end.

**SEC. 111. REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES.**

(a) REVISION OF REQUIREMENTS.—Subsection (a) of section 3675 of title 38, United States Code, is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by striking out the matter below subparagraph (C) (as so redesignated) and inserting in lieu thereof the following new paragraphs:

"(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

"(B) A State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

"(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

"(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

"(i) state with specificity the requirements of the institution with respect to graduation;

"(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

"(iii) include any attendance standards of the institution, if the institution has and enforces such standards.".

(b) APPROVAL OF NURSES AIDE COURSES.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11-28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).".

**SEC. 112. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.**

(a) PROHIBITION OF APPROVAL OF NONACCREDITED COURSES.—Section 3676 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education which has not been approved by a State approving agency pursuant to section 3675 of this title may not be approved under this section if it is to be pursued, in whole or in part, by independent study.".

(b) REQUIREMENT OF DISAPPROVAL OF ENROLLMENT IN CERTAIN COURSES.—

(1) IN GENERAL.—Section 3473 of title 38, United States Code, is—

(A) transferred to chapter 36 and inserted after section 3679; and

(B) redesignated as section 3679A.

(2) APPLICATION.—Such section 3679A is amended—

(A) in subsection (a)(4), by striking out "one" and inserting in lieu thereof "an accredited independent study program";

(B) in subsection (d)(1), by striking out "32, 35, or 36" in the third sentence and inserting in lieu thereof "32, or 35"; and

(C) by striking out paragraph (2) of subsection (d) and inserting in lieu thereof the following new paragraph (2):

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, 3241(a)(2), or 3533 of this title or section 2131(h) of title 10;

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6) of this title.".

(3) SURVIVORS' AND DEPENDENTS' ASSISTANCE.—Section 3523(a)(4) of such title is amended by striking out "one" and inserting in lieu thereof "an accredited independent study program".

(c) CONFORMING AMENDMENTS.—

(1) TITLE 38.—(A) Section 3034 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by striking out "3473,"; and

(ii) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3679A(b)".

(B) Section 3241 of such title is amended—

(i) in subsection (a)(1), by striking out "3473,";

(ii) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3679A(b)"; and

(iii) in subsection (c), by striking out "3473,".

(2) TITLE 10.—Section 2136 of title 10, United States Code, is amended—

(A) in subsection (b), by striking out "1673,"; and

(B) in subsection (c)(1), by striking out "1673(b)" and inserting in lieu thereof "3679A(b)".

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by striking out the item relating to section 3473.

(2) The table of sections at the beginning of chapter 36 of such title is amended by inserting after the item relating to section 3679 the following new item:

"3679A. Disapproval of enrollment in certain courses.".

(e) SAVINGS PROVISION.—The amendments made by subsections (a) and (b) shall not apply to any person who is receiving educational assistance under chapter 30, 32, or 35 of title 38, United States Code, or chapter 106 of title 10, United States Code, on the date of the enactment of this Act for pursuit of an independent study program—

(1) in which the person is enrolled on that date;

(2) in which the person remains continuously enrolled thereafter (until completion of the program by the person); and

(3) for which the person continues to meet the eligibility requirements for such assistance that apply to the person on that date.

**SEC. 113. TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE.**

(a) TREATMENT.—Section 3680(e) of title 38, United States Code, is amended—

(1) by striking out "(e) If" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.".

(b) TECHNICAL AMENDMENT.—Section 3680(e) of such title (as amended by subsection (a)) is further amended by striking out "eligible person," and inserting in lieu thereof "eligible person".

**SEC. 114. BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING.**

Section 3681(a) of title 38, United States Code, is amended by striking out "and whose full salary" and all that follows through the period and inserting in lieu thereof a period.

**SEC. 115. REVISIONS IN MEASUREMENT OF COURSES.**

(a) ELIMINATION OF DISTINCTION BETWEEN ACCREDITED AND NON-ACCREDITED COURSE MEASUREMENT.—

(1) TRADE OR TECHNICAL COURSES INVOLVING SHOP PRACTICES.—Subsection (a)(1) of section 3688 of title 38, United States Code, is amended by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours per week of rest periods allowed".

(2) THEORETICAL COURSES NOT LEADING TO STANDARD COLLEGE DEGREES.—Subsection (a)(2) of such section is amended by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (which shall exclude supervised study but may include customary intervals not to exceed 10 minutes between hours of instruction) is required".

(b) TREATMENT OF CERTAIN COURSES OFFERED BY INSTITUTIONS OF HIGHER LEARNING.—

(1) COURSES LEADING TO A STANDARD COLLEGE DEGREE.—Subsection (a)(4) of such section is amended—

(A) by striking out "in residence"; and

(B) by inserting "(other than a course pursued as part of a program of education beyond the baccalaureate level)" after "semester-hour basis".

(2) COURSES NOT LEADING TO A STANDARD COLLEGE DEGREE.—Subsection (a)(7) of such section is amended to read as follows:

"(7) an institutional course not leading to a standard college degree offered by an institution of higher learning on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided for in clause (4) of this subsection, except that such a course may not be measured as full time if the course requires less than the minimum weekly hours of attendance required for full-time measurement under clause (1) or (2) of this subsection, as the case may be.".

(c) MEASUREMENT OF REFRESHER COURSES.—Subsection (a)(6) of such section is amended by striking out "an institutional course" and all that follows through "of this title" and inserting in lieu thereof "an institutional course offered by an educational institution under section 3034(a)(3), 3241(a)(2), or 3533(a) of this title as part of a program of education not leading to a standard college degree".

(d) MEASUREMENT OF PART-TIME TRAINING.—Subsection (b) of such section is amended by striking out "34 or 35" and inserting in lieu thereof "30, 32, or 35".

(e) CONFORMING AMENDMENTS.—(1) Section 3688 of title 38, United States Code (as amended by subsections (a) through (d)), is further amended—

(A) in subsection (a), by striking out the flush material that follows paragraph (7); and

(B) by striking out subsections (c), (d), and (e).

(2) Section 3532(c) of such title is amended by striking out paragraphs (3) and (4).

(f) EFFECTIVE DATE.—The amendments made by subsections (a) through (e) shall take effect on September 1, 1993.

**SEC. 116. CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION.**

Subsection (d) of section 3691 of title 38, United States Code, is amended to read as follows:

"(d) For the purposes of this section, the term 'change of program of education' shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—

"(1) the veteran or eligible person has successfully completed the former program;

"(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;

"(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or

"(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.".

**SEC. 117. AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE.**

Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—

"(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

"(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.

"(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.

"(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed $100 for any month, nor aggregate more than $1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.

"(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—

"(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

"(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

"(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

"(3)(A) A person's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of $600.

"(B) A person's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".

**SEC. 118. TECHNICAL AMENDMENTS.**

(a) TITLE 10.—Chapter 106 of title 10, United States Code, is amended—

(1) in section 2131(c)(2), by striking out "section 1795" and inserting in lieu thereof "section 3695";

(2) in section 2131(c)(3)(A)(ii), by striking out "section 1795" and inserting in lieu thereof "section 3695";

(3) in section 2131(c)(3)(C), by striking out "section 1795" and inserting in lieu thereof "section 3695";

(4) in section 2133(b)(2), by striking out "section 1431(f)" and inserting in lieu thereof "section 3031(f)";

(5) in section 2133(b)(3), by striking out "section 1431(d)" and inserting in lieu thereof "section 3031(d)"; and

(6) in section 2136(b) (as amended by section 112(c)(2))—

(A) by striking out "sections 1670," and all that follows through "and 1685" and inserting in lieu thereof "sections 3470, 3471, 3474, 3476, 3682(g), 3683, and 3685";

(B) by striking out "1780(c),"; and

(C) by striking out "1786(a), 1787, and 1792)" and inserting in lieu thereof "3686(a), 3687, and 3692)".

(b) TITLE 38.—Section 3679A of title 38, United States Code (as redesignated and amended by section 112(b)) is further amended in subsection (b) by striking out "The Secretary" and inserting in lieu thereof "Except as provided in this title or chapter 106 of title 10, the Secretary".

## TITLE II—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

**SEC. 201. PERMANENT PROGRAMS OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS.**

(a) PERMANENT PROGRAM.—(1) Subsection (a)(1) of section 1163 of title 38, United States Code, is amended by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,".

(2) Subsection (a)(2) of such section is amended to read as follows:

"(2) For the purposes of this section, the term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.".

(b) COUNSELING SERVICES.—Subsection (b) of such section is amended by striking out "During the program period, the Secretary" and inserting in lieu thereof "The Secretary".

(c) NOTICE.—Subsection (c)(1) of such section is amended by striking out "during the program period" and all that follows through "(a)(2)(A)" and inserting in lieu thereof "after January 31, 1985, of a rating of total disability described in subsection (a)(2)".

(d) CONFORMING AMENDMENTS.—(1) The section head of such section is amended to read as follows:

***"§1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings".***

(2) The table of sections at the beginning of chapter 11 of title 38, United States Code, is amended by striking out the item relating to section 1163 and inserting in lieu thereof the following:

"1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.".

**SEC. 202. PERMANENT PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.**

(a) PERMANENT PROGRAM.—Subsection (a) of section 1524 of title 38, United States Code, is amended to read as follows:

"(a)(1) A veteran who has been awarded pension under this chapter may submit to the Secretary an application for vocational training under this section.

"(2) Subject to paragraph (4) of this subsection, upon the submittal of an application by a veteran under paragraph (1) of this subsection, the Secretary shall—

"(A) make a preliminary finding (on the basis of information contained in the application or otherwise in the possession of the Secretary) whether the veteran has good potential for achieving employment after pursuing a vocational training program under this section; and

"(B) if the Secretary makes a preliminary finding that the veteran has such potential, provide the veteran with an evaluation to determine whether the veteran's achievement of a vocational goal is reasonably feasible.

"(3) An evaluation of a veteran under subparagraph (B) of paragraph (2) shall include a personal interview of the veteran carried out by a Department employee who is trained in vocational counseling (as determined by the Secretary) unless the Secretary determines that such an evaluation is not feasible or is not necessary to make the determination referred to in that subparagraph.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (b)(4) of such section is amended by striking out "the later of (A)" and all that follows through the period at the end of the first sentence and by inserting in lieu thereof "the end of a reasonable period of time (as deter-

mined by the Secretary) following the evaluation of the veteran under subsection (a)(2)(B) of this section.".

(2)(A) The section head of such section is amended to read as follows:

**"§1524. Vocational training for certain pension recipients".**

(B) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by striking out the item relating to section 1524 and inserting in lieu thereof the following:

"1524. Vocational training for certain pension recipients.".

**SEC. 203. PROTECTION OF HEALTH-CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS.**

(a) PERMANENT PROTECTION.—Section 1525 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) For the purposes of this section, the term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for renumeration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.".

(b) CONFORMING AMENDMENTS.—(1) The section head of such section is amended to read as follows:

**"§1525. Protection of health-care eligibility".**

(2) The table of sections at the beginning of chapter 15 of title 38, United States Code, is amended by striking out the item relating to section 1525 and inserting in lieu thereof the following:

"1525. Protection of health-care eligibility.".

**SEC. 204. VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS.**

(a) VOCATIONAL REHABILITATION.—Section 3102 of title 38, United States Code, is amended to read as follows:

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

"(1) the person is—

"(A)(i) a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

"(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

"(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

"(B) determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

"(2) the person is a veteran who—

"(A) has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; and

"(B) has a serious employment handicap.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

**SEC. 205. INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS PARTICIPATING IN A REHABILITATION PROGRAM.**

(a) INCREASE.—Section 3108(b) of title 38, United States Code, is amended by striking out the table at the end and inserting in lieu thereof the following new table:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $366 | $454 | $535 | $39 |
| Three-quarter-time | 275 | 341 | 400 | 30 |
| Half-time | 184 | 228 | 268 | 20 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time | 320 | 387 | 446 | 29 |
| Extended evaluation: | | | | |
| Full-time | 366 | 454 | 535 | 39 |
| Independent living training: | | | | |
| Full-time | 366 | 454 | 535 | 39 |
| Three-quarter-time | 275 | 341 | 400 | 30 |
| Half-time | 184 | 228 | 268 | 20". |

(b) COST-OF-LIVING INCREASE.—Such section is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

"(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1993.

**SEC. 206. TREATMENT OF CERTAIN APPLICATIONS FOR PENSION AND FOR DEPENDENCY AND INDEMNITY COMPENSATION.**

Section 5306(b) of title 38, United States Code, is amended to read as follows:

"(b)(1) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date.

"(2) Except as provided in paragraph (3), a new application for pension, compensation, or dependency and indemnity compensation under this subsection shall be treated as an original application, and no payments shall be made for any period before the date such application is filed.

"(3) An application for dependency and indemnity compensation to parents payable under section 1315 of this title or for pension payable under chapter 15 of this title that is filed during the one-year period beginning on the date that a renouncement thereto was filed by the person pursuant to subsection (a) shall not be considered an original application, and payment of such benefits shall be made as if the renouncement had not occurred.".

**SEC. 207. STYLISTIC AMENDMENT.**

(a) IN GENERAL.—Section 5110(h) of title 38, United States Code, is amended by striking out "calendar".

(b) RULE OF CONSTRUCTION.—The purpose of subsection (a) is to make a nonsubstantive stylistic amendment that conforms the terminology used in section 5110(h) of title 38, United States Code, to that used in such title.

## TITLE III—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

**SEC. 301. IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM.**

Section 4103A(a)(1) of title 38, United States Code, is amended in the first sentence by striking out "specialist for each 5,300 veterans" and all that follows through the end of the sentence and inserting in lieu thereof "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.".

**SEC. 302. REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR DISABLED VETERANS' OUTREACH PROGRAM PURPOSES.**

Section 4211(2) of title 38, United States Code, is amended—

*(1) in subparagraph (A), by striking out "(A) Subject to subparagraph (B) of this paragraph, the term" and inserting in lieu thereof "The term"; and*

*(2) by striking out subparagraph (B).*

***SEC. 303. IMPROVEMENT OF PROGRAM OF FEDERAL EMPLOYMENT OF VIETNAM ERA VETERANS.***

*Section 4214(b)(2)(A) of title 38, United States Code, is amended—*

*(1) at the end of clause (i), by striking out "or";*

*(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or"; and*

*(3) by adding at the end the following new clause:*

*"(iii) was discharged or released from active duty after December 31, 1979, under conditions other than dishonorable; and".*

***SEC. 304. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.***

*Section 1144(e) of title 10, United States Code, is amended—*

*(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and*

*(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".*

***TITLE IV—COST SAVINGS***

***SEC. 401. PERMANENT AUTHORITY FOR RECOVERY OF CERTAIN MEDICAL-CARE COSTS.***

*Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1993,".*

***SEC. 402. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.***

*(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) of title 38, United States Code, is amended to read as follows:*

*"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.*

*"(B) A person referred to in subparagraph (A) is a person—*

*"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and*

*"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".*

*(b) CONFORMING AMENDMENTS.—Section 5503(f) of such title is amended—*

*(1) in paragraph (3)—*

*(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and*

*(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and*

*(2) in paragraph (4)—*

*(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";*

*(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and*

*(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".*

*(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.*

*(d) DELETION OF EXPIRATION DATE.—Section 5503(f) of such title is amended by striking out paragraph (6).*

Amend the title so as to read: "An Act to amend title 38, United States Code, and title 10, United States Code, to revise and improve educational assistance programs for veterans and members of the Armed Forces, to improve certain vocational assistance programs for veterans, and for other purposes.".

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2975. A bill to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes (Rept. No. 102–427).

## 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. BAUCUS:

S. 3278. A bill to amend the Internal Revenue Code to exempt companies from the railroad retirement and unemployment taxes; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. BRADLEY, and Mr. MCCONNELL):

S. 3279. A bill to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes; considered and passed.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS:

S. 3278. A bill to amend the Internal Revenue Code to exempt locomotive and freight car repair and rebuilding companies from the railroad retirement and unemployment taxes; to the Committee on Finance.

CLARIFICATION OF CERTAIN PROVISIONS OF THE RAILROAD RETIREMENT ACT

• Mr. BAUCUS. Mr. President, I rise today to introduce legislation which is critically important to my constituents of Livingston and Park County, MT. My proposed legislation would clarify the intent of the Railroad Retirement Act as it applies in certain limited situations of separate affiliates which were never part of a railroad.

In Livingston, the Livingston Rebuild Center [LRC] is an independent investor-owned company in the business of rebuilding locomotives and repairing rail cars. The former repair shops of the Burlington Northern Railroad had been closed for several years, resulting in severe hardship and unemployment for the residents of Livingston when LRC was established in 1988.

LRC has since become the second largest basic industry in Park County and generated 53 percent of the county's manufacturing wages in 1991. LRC currently employes 115 workers and, according to a study by a Montana economic consultant, generates an additional 257 jobs in Montana.

In other words, LRC is the economic lifeblood for Park County. The problem is that even though LRC is a separate legal entity and was never part of any railroad LRC has been held to be retroactively liable for payment of railroad retirement taxes. The Railroad Retirement Board [RRB] in an agency opinion, stated that, based on the wording of the statute, LRC is liable for railroad retirement taxes, given its majority shareholder is also a majority shareholder of Montana Rail Link [MRL].

This doesn't make sense. Even on the appeal the Seventh Circuit Court of Appeals found the 1937 railroad retirement statutes to be creaky and in need of revision to comply with modern business structures.

Mr. President, my proposed legislation would clarify the creaky 1937 railroad retirement statute by adding a two-part test, both parts of which must be met in order for a company to be exempt from Railroad Retirement Act coverage.

First, the company must not be subject to the direct jurisdiction of the Interstate Commerce Commission. I believe that was the intent of Congress in the first place.

Second, in order to insure that my proposal is narrow and does not create any incentive for railroads to spinoff existing operations to avoid taxes, my proposal also requires that the entity be a separate legal entity which did not originate as a part of a railroad.

It is most important to note that my proposal as it is currently structured would not affect the fiscal integrity of the railroad retirement fund. Therefore those retirees and workers who have paid into the fund would not in any way see their benefits impacted. This amendment would allow the fiscal status quo to be maintained for the Federal Government and most importantly the workers.

In summary, my proposal helps clarify that the railroad retirement fund applies to railroads, as intended, but not independent operations which were never a part of any railroad and may not have been intended to be covered.

I have received hundreds of letters and cards, from workers at LRC and the residents of Livingston, gravely concerned that unless this issue is resolved, LRC will close and their jobs will disappear.

For the affected workers and families in Livingston and Park County, MT, this is not an abstract philosophical debating point. This clarification of a creaky statute is needed to save their

jobs. I urge the support of my colleagues for this legislation.

Mr. President, I ask that a copy of the legislation appear in the RECORD immediately following my remarks.

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

S. 3278

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SEC. . LOCOMOTIVE AND FREIGHT CAR REPAIR AND REBUILDING SERVICES EXEMPT FROM RAILROAD RETIREMENT AND UNEMPLOYMENT TAXES.**

(a) RAILROAD RETIREMENT TAX.—

(1) IN GENERAL.—Section 3231(a) (relating to definitions for railroad retirement tax) is amended by adding at the end the following new sentence: "The term 'employer' shall not include any person engaged in locomotive and freight car repair services and activities, but only if such person was so engaged before July 1, 1988, is not subject to the direct jurisdiction of the Interstate Commerce Commission under the Interstate Commerce Act, and is not (and never was) a division or part of a carrier with which such person is currently affiliated."

(2) CONFORMING AMENDMENT.—Section 1(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and", and by adding at the end the following new clause:

"(iii) any person engaged in locomotive and freight car repair services and activities, but only if such person was so engaged before July 1, 1988, is not subject to the direct jurisdiction of the Interstate Commerce Commission under the Interstate Commerce Act, and is not (and never was) a division or part of a carrier with which such person is currently affiliated."

(b) RAILROAD UNEMPLOYMENT TAX.—Section 1(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 351) is amended by adding at the end the following new sentence: "The term 'employer' shall not include any person engaged in locomotive and freight car repair services and activities, but only if such person was so engaged before July 1, 1988, is not subject to the direct jurisdiction of the Interstate Commerce Commission, and is not and never was a division or part of a carrier with which such person is currently affiliated."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988.●

## ADDITIONAL COSPONSORS

S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

## AMENDMENTS SUBMITTED

## TAX ENTERPRISE ZONES ACT

### CRAIG (AND OTHERS) AMENDMENT NO. 3200

Mr. CRAIG (for himself, Mr. HATCH, Mr. COATS, Mr. GORTON, Mr. MCCAIN, and Mr. SEYMOUR) proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

On page 1022, beginning with line 4, strike all through line 7, and insert:

(c) INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended—

(1) by striking "5" in clause (i) and inserting "7.5", and

(2) by striking "3.57" in clause (ii) and inserting "5.35".

Beginning on page 1637, line 9, strike all through page 1639, line 19 and insert:

**SEC. 7104. DEDUCTION FOR ADOPTION EXPENSES.**

(a) DEDUCTION FOR ADOPTION EXPENSES.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

**"SEC. 220. ADOPTION EXPENSES.**

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's regard to this section and section 134) exceeds $80,000, bears to

"(B) $10,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State, or local program.

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement and

"(B) are not incurred in violation of State or Federal law.

"(2) ADOPTION EXPENSES NOT TO INCLUDE CERTAIN AMOUNTS.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption by an individual of a child who is the child of such individual's spouse, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) CHILD.—The term 'child' means an individual who at the time of adoption under this section has not attained the age of 18.".

(2) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking the item relating to section 220 and inserting the following:

"Sec. 220. Adoption expenses.
"Sec. 221. Cross reference.".

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220.".

(c) ADOPTION ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

**"SEC. 136. ADOPTION ASSISTANCE PROGRAMS.**

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed the excess (if any) of $5,000 over the amount allowable as a deduction (or amounts taken into account in computing the deduction) under section 220 with respect to such adoption.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income (determined without regard to this section and section 220) exceeds $80,000, bears to

"(B) $10,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified

adoption expenses' has the meaning given such term by section 220(c).".

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following:

"Sec. 136. Adoption assistance programs.
"Sec. 137. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

**SEC. 7104A. DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a) (relating to allowance of credit) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN TAXPAYERS.—In the case of a taxpayer whose adjusted gross income for the taxable year exceeds $80,000, paragraph (2) shall be applied by substituting '20' for '30', by substituting '10' for '120', by substituting '$1,000' for '$2,000', and by substituting '$80,000' for '$10,000'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

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## HATCH (AND OTHERS) AMENDMENT NO. 3201

Mr. HATCH (for himself, Mr. BURNS, Mr. CRAIG, Mr. GARN, Mr. SIMPSON, Mr. SYMMS, Mr. MCCONNELL, Mr. WALLOP, and Mr. WARNER) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII add the following new section:

**SEC. . EXPLOSIVES HANDLING EQUIPMENT EXEMPT FROM HEAVY TRUCK TAX.**

(a) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) EXPLOSIVES HANDLING EQUIPMENT.—Any article primarily designed—

"(A) to be placed or mounted on an automobile truck chassis, truck trailer, or semitrailer chassis, and

"(B) to be used to process, prepare, or load explosive products or the components thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(b) of the Surface Transportation Assistance Act of 1982.

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## HOLLINGS (AND THURMOND) AMENDMENT NO. 3202

Mr. HOLLINGS (for himself and Mr. THURMOND) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1527, between lines 22 and 23, insert the following:

(g) APPLICATION OF 1988 TECHNICAL.—At the election of an issuer made in writing to the Secretary of the Treasury, the amendment made by section 1009(b)(1)(B) of the Technical and Miscellaneous Revenue Act of 1988 shall not apply to bonds issued as bank eligible pursuant to section 902 of the Tax Reform Act of 1986 before March 31, 1988.

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## RIEGLE (AND OTHERS) AMENDMENT NO. 3203

Mr. RIEGLE (for himself, Mr. LEVIN, Mr. GLENN, Mr. WOFFORD, and Mr. SHELBY) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII of the Committee Substitute, insert:

**SEC. . SENSE OF THE SENATE REGARDING MULTIPURPOSE VEHICLES.**

(a) FINDINGS.—The Congress finds that—

(1) multipurpose vehicles are classified as trucks by the United States Government for emissions, fuel economy, luxury tax, and other purposes;

(2) the automobile industry reports multipurpose vehicles, such as trucks, in its sales figures;

(3) after almost 1 year of thorough analysis, in a ruling requested by a vehicle importer, the United States Customs Service found that multipurpose vehicles, because of their design characteristics, should be classified as trucks for tariff purposes;

(4) after only 1 month of review, the Treasury Department overruled the decision of the Customs Service ruling that two-door sport utility vehicles are trucks and otherwise identical four-door sport utility vehicles are cars;

(5) from time-to-time, a number of vehicle importers have themselves classified multipurpose vehicles as trucks in order to avoid a self-imposed quota on cars;

(6) the multipurpose vehicle was invented in the United States, and the market for multipurpose vehicles in the United States exceeds the market for such vehicles in the rest of the world;

(7) the production of these vehicles in the United States is a significant contributor to employment and profits in a key manufacturing sector;

(8) classifying multipurpose vehicles as trucks would result in $210 million a year in revenues to the United States Treasury;

(9) the United States should not make large, unilateral trade concessions to its trading partners, but rather should strive to receive reciprocal trade concessions from its trading partners;

(10) consistent classification of products is an important element of trade policy; and

(11) as the Customs Service correctly found, minivans and sport utility vehicles are not principally designed for the transport of persons, but equally designed for the transport of goods, because of their cargo capacity, removal of seats, flat floors, and large cargo space (in the case of minivans), and because of their off-road capability, heavy-duty suspension, low torque, and other truck-like characteristics (in the case of sport utility vehicles).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the January 4, 1989, decision of the United States Customs Service classifying multipurpose vehicles as trucks for tariff purposes was correct and should stand; and

(2) action should be taken to reinstate the Customs Service's decision.

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## BENTSEN AMENDMENT NO. 3204

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 885, after line 16, insert:

(f) OTHER AMENDMENTS.—

(1) Section 408A(d)(2)(B)(iv), as added by subsection (a), is amended by striking "Under" and inserting "Except as provided in".

(2) Section 408A(e)(2), as added by subsection (a), is amended by adding at the end the following new sentence: "This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account."

On page 894, line 11, insert ", 403(a)(4), or 403(b)(8)" after "402(c)".

On page 1028, line 16, strike "and".

On page 1028, line 20, insert ", and" after the quotation marks.

On page 1028, between lines 20 and 21, insert:

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

On page 1065, between lines 1 and 2, insert:

(14) Section 401(k)(2)(B)(i)(III).

On page 1096, line 7, insert **"AND RETIREMENT INCOME POLICY"** after **"PLANS"**.

On page 1096, line 10, insert "and Retirement Income Policy" after "Plans".

On page 1096, line 25, strike "Federal" and insert "private".

On page 1097, strike lines 4 though 6, and insert:

"(1)(A) It shall be the duty and function of the Commission to conduct a full and complete review and study of—

"(i) trends in retirement savings in the United States;

"(ii) existing Federal incentives and programs that are established to encourage and protect such savings; and

"(iii) new Federal incentives and programs that are needed to encourage and protect such savings.

"(B) In fulfilling its duties under paragraph (1), the Commission shall address—

"(i) the amount and sources of Federal and private funds, including tax expenditures (as defined in section 3, of the Congressional Budget Act of 1974 (2 U.S.C. 622)), needed to finance the incentives and programs referred to in subparagraph (A)(ii) and any new Federal incentive or program that the Commission recommends be established;

"(ii) the most efficient and effective manner, considering the needs of retirement plan sponsors for simplicity, reasonable cost, and appropriate incentives, of ensuring that individuals in the United States will have adequate retirement savings;

"(iii) the workforce and demographic trends that affect the pensions of future retirees;

"(iv) the role of retirement savings in the economy of the United States;

"(v) sources of retirement income other than private pensions that are available to individuals in the United States; and

"(vi) the shift away from insured and qualified pension benefits in the United States.

On page 1097, lines 17 through 19, strike "reviewing existing Federal incentives and programs that encourage and protect private retirement savings" and insert "setting forth the results of the study under subsection (d)(1)".

On page 1097, line 21, after the period insert "The recommendations shall include measures that address the needs of future retirees for—

"(1) appropriate pension plan coverage and other mechanisms for saving for retirement;

"(2) an adequate retirement income;

"(3) preservation of benefits they accumulate by participating in pension plans;

"(4) information concerning pension plan benefits; and

"(5) procedures to resolve disputes involving such benefits.

A recommendation of the Commission for a new Federal incentive or program that would result in an increase in the Federal budget deficit shall not appear in the report unless it is accompanied by a recommendation for offsetting the increase.

On page 1101, in the matter between lines 18 and 19, insert "and Retirement Income Policy" after "Plans".

On page 1531, strike lines 5 through 8 and insert the following:

(D) Section 401(a)(31)(D) is amended—

(i) by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust", and

(ii) by adding at the end the following new sentence: "In the case of an annuity contract under section 403(b), the term 'eligible retirement plan' shall include only an individual retirement plan and an annuity contract described in section 403(b)(1)."

On page 1531, lines 13 through 15, strike "(or in the case of an annuity contract under section 403(b), in a rollover to which section 402(c)(8) applies)".

On page 1531, line 18, after "applies" insert "(or in the case of an annuity contract under section 403 (a) or (b), in a rollover to which section 403 (a)(4) or (b)(8) applies)".

On page 1532, between lines 2 and 3, insert:

(J) Section 402(f)(2)(B) is amended—

(i) by striking "or" and inserting a comma, and

(ii) by inserting ", or paragraph (8) of section 403(b)" after "section 403(a)".

On page 1532, strike lines 9 through 11, and insert:

(C) Section 3405(c)(3) is amended by striking "(or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))".

On page 1533, line 9, strike "(8)" and insert "(9)".

On page 1533, between lines 9 and 10, insert:

(C) Section 403(b)(8)(B) is amended by striking "(7)" and inserting "(9)".

On page 1533, line 10, strike "(C)" and insert "(D)".

On page 1533, line 12, strike "(D) Section 522(d)" and insert "(E) Section 522(d)(2)".

On page 1533, line 20, strike "and".

On page 1533, line 23, strike the period and insert "and".

On page 1533, between lines 23 and 24, insert:

(iii) by inserting "(and section 402(f) of such Code, as amended by section 521)" after "section".

(F) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PAYMENTS.—The amendments made by this section (and section 402(f) of such Code, as amended by section 521) shall not apply to any distribution—

"(A) which is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before January 1, 1993, or

"(B) which is made—

"(i) before July 1, 1993, or

"(ii) on or after July 1, 1993, but only if such distribution is 1 of a series of substantially equal periodic payments with respect to which the annuity starting date (within the meaning of section 417(f)(2) of such Code) is before July 1, 1993, by reason of a death, disability, or separation from service occurring before January 1, 1993.", and

(ii) by inserting "or (3)" after "(2)" in paragraph (1).

On page 1533, line 24, strike "(E)" and insert "(G)".

On page 1534, between lines 4 and 5, insert:

(H) Section 402(c)(9) is amended by striking "; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution".

On page 1800, line 9, insert "or indirectly" after "directly".

On page 1800, line 12, strike "an" and insert "a direct or indirect".

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## DOMENICI AMENDMENT NO. 3205

Mr. DOMENICI proposed an amendment to the bill H.R. 11, supra, as follows:

On page 971, line 17, strike "10-taxable year" and insert "7-taxable year".

On page 962, line 2, strike "10-taxable year" and insert "7-taxable year".

On page 1811, after line 9, insert the following new section:

**SEC. . INFRASTRUCTURE FACILITIES BONDS.**

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by repealing paragraphs (4), (5), and (6), and

(2) by striking paragraph (10) and inserting the following new paragraph:

"(10) infrastructure facilities,".

(b) INFRASTRUCTURE FACILITIES.—

(1) IN GENERAL.—Section 142, as amended by section 1103(b) is amended—

(A) by redesignating subsection (e) as subsection (k), and

(B) by inserting after subsection (d) the following new subsection:

"(e) INFRASTRUCTURE FACILITIES.—For purposes of subsection (a)(10), the term 'infrastructure facilities' means—

"(1) sewage facilities,

"(2) solid waste disposal facilities,

"(3) qualified hazardous waste facilities, and

"(4) facilities for the furnishing of water."

(2) CONFORMING AMENDMENTS.—

(A) Section 142(h) is amended by striking "subsection (a)(10)" and inserting "subsection (e)(3)".

(B) Section 142(k), as redesignated by paragraph (1)(A), is amended, by striking "subsection (a)(4)" and inserting "subsection (e)(4)".

(c) INFRASTRUCTURE FACILITIES BONDS EXEMPTED FROM VOLUME CAP.—

(1) IN GENERAL.—Section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting ", and", and

(C) by adding at the end the following new paragraph:

"(5) any exempt facility bond issued as part of an issue described in section 142(a)(10) (relating to infrastructure facilities)."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (h) of section 146 (relating to exception for government-owned solid waste disposal facilities is hereby repealed.

(B) Section 146(k) (relating to facility must be located within State) is amended—

(i) by striking "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraph (2)",

(ii) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5) for an output facility, if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(d) INFRASTRUCTURE FACILITIES BONDS EXEMPTED FROM DETERMINATION OF AMT.—Subparagraph (C) of section 57(a)(5) (relating to tax-exempt interest) is amended by adding at the end the following new clause:

"(v) EXCEPTION FOR INFRASTRUCTURE FACILITIES BONDS.—For purposes of clause (i), the term 'private activity bond' shall not include any bond issued as part of an issue described in section 142(a)(10)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1993.

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## LOTT (AND OTHERS) AMENDMENT NO. 3206

Mr. LOTT (for himself, Mr. SIMON, and Mr. KENNEDY) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert:

**SEC. 8217. QUALIFIED SCHOLARSHIPS.**

(a) IN GENERAL.—Section 117(b)(2)(B) (defining qualified tuition and related expenses) is amended by striking "fees" and inserting "room, board, travel, fees".

(b) EFFECTIVE DATE.—The amendment made by this section applies to amounts received after December 31, 1992.

(a) IN GENERAL.—Paragraph (6) of section 162(1) (relating to special rules for health insurance costs of self-employed individuals), as amended by section 2143(a), is amended by striking the date and inserting "May 15, 1994".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991, as amended by section 2143(e), is amended—

(1) by striking "in 1993" and inserting "in 1994", and

(2) by striking "October 1, 1993" each place it appears and inserting "May 15, 1994".

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## SIMON (AND HATCH) AMENDMENT NO. 3207

Mr. SIMON (for himself and Mr. HATCH) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1699 after line 13, insert the following:

(c) MOST EFFECTIVE PROVIDERS TO HAVE ACCESS TO JOBS PROGRAM FUNDS.—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each State shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this title. States that have already provided such an assurance to the Secretary of Education shall not be required to provide an additional assurance under this Act. In determining which programs shall receive assistance under this title, the State shall consider (i) the effectiveness of applicants in providing services (especially with respect to recruitment and retention of disadvantaged adults and the learning gains demonstrated by such adults and the ability to serve eligible individuals in a cost effective manner); (ii) the degree to which the applicant will coordinate and utilize other and social services available in the community; and, (iii) the commitment of the applicant to serve individuals in the community that are most in need of services.".

On page 1699 after line 13, insert the following:

(c) MOST EFFECTIVE PROVIDERS TO HAVE ACCESS TO JOBS PROGRAM FUNDS.—Section 482(a)(1) (42 U.S.C. 682(a)(1)) is amended at the end thereof by inserting the following:

"(E) Not later than April 1, 1993, each state shall provide assurance that local education agencies, public or private agencies or organizations, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions that serve disadvantaged adults will be provided access to Federal funds provided under this part, in accordance with regulations issued by the Secretary."

## MACK (AND OTHERS) AMENDMENT NO. 3208

Mr. MACK (for himself, Mr. GRAHAM, Mr. INOUYE, Mr. AKAKA, Mr. JOHNSTON, and Mr. BREAUX) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 889, line 12, insert: "An individual whose principal residence was destroyed or substantially damaged by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar shall be treated as a first-time homebuyer with respect to such residence if the individual rebuilds it or with respect to any other principal residence acquired to replace such residence."

## MACK (AND OTHERS) AMENDMENT NO. 3209

Mr. MACK (for himself, Mr. GRAHAM, Mr. INOUYE, Mr. AKAKA, Mr. JOHNSTON, and Mr. BREAUX) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII of the Committee amendment, insert:

**SEC. . SPECIAL RULE FOR INCLUSION OF CROP PROCEEDS OF DISASTER VICTIMS.**

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(h) SPECIAL RULE FOR CROP PROCEEDS OF CERTAIN DISASTER VICTIMS.

"(1) IN GENERAL.—If, for the taxpayer's taxable year which includes the designation date described in paragraph (2), the taxpayer has income derived from the sale of crops grown in a qualified disaster area, the taxpayer may elect to include such income for the taxable year following the taxable year in which such sale or exchange occurs.

"(2) QUALIFIED DISASTER AREA.—For purposes of paragraph (1), the term 'qualified disaster area' means an area designated by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Andrew, Hurricane Inikki, or Typhoon Omar.

"(3) LIMITATION.—Paragraph (1) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of section 6420(c)(3)).''

(b) SPECIAL RULES FOR SELF-EMPLOYMENT TAX.—If, for any taxable year, a taxpayer includes in gross income any amounts which, but for section 451(h) of the Internal Revenue Code of 1986 (as added by subsection (a)), would have been included in gross income for the preceding taxable year, then the applicable contribution base for purposes of section 1402(b) for the taxable year of inclusion shall be increased by the lesser of—

(1) the applicable contribution base for the preceding taxable year, reduced by the self-employment income of the taxpayer for the preceding taxable year, or

(2) the amounts so included in gross income for the taxable year of inclusion.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1991.

## METZENBAUM AMENDMENT NO. 3210

Mr. METZENBAUM proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the Committee amendment, insert the following:

**SEC. . PROHIBITION AGAINST TRANSFERS OF TAX BENEFITS AND LIABILITIES BETWEEN SAVINGS AND LOAN HOLDING COMPANIES AND SAVINGS ASSOCIATIONS.**

(a) IN GENERAL.—Section 11(a) of the Homeowners Loan Act (12 U.S.C. 1468(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following paragraph:

"(4) CERTAIN TRANSFERS AND ALLOCATIONS.—

"(A) LOSSES OF SAVINGS ASSOCIATION.—A savings association that incurs taxable loss shall be reimbursed in cash by the holding company to the extent that there is a tax benefit arising from the loss in the consolidated return as determined in a manner consistent with the allocation of taxes to profitable subsidiaries. The reimbursement shall be based on the amount the savings association would have received had it filed its income tax return on a separate return basis and shall be made no later than the approximate time that the savings association would have received a refund of tax if it had filed a separate return (or, if earlier, at the time the refund is received by the holding company).

"(B) PAYMENT OF TAXES.—A savings association having taxable income which files a consolidated tax return with a holding company shall not transfer to the holding company for payment of taxes an amount in excess of the amount of tax the savings association would have paid had its tax return been filed on a separate return basis. Any such payment shall not be made before the approximate time that such payment is required to be made to the Internal Revenue Service. In no event shall a savings association make any payment to a holding company for a deferred tax liability.

"(C) AGREEMENTS.—Any tax allocation agreement between a holding company and savings association shall be consistent with the provisions of this paragraph."

"(b) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Office of Thrift Supervision shall take such actions as are necessary to implement the amendments made by subsection (a).

(c) APPLICABILITY.—

(1) IN GENERAL.—The amendment made by subsection (a) applies to payments and refunds of Federal taxes for taxable years ending after September 30, 1990.

(2) CONSTRUCTION.—The enactment of this section shall not be construed as indicating that the Office of Thrift Supervision had no discretionary authority prior to such date to effect the same policy by rule, regulation, enforcement action, or otherwise.

## DOLE AMENDMENT NO. 3211

Mr. DOLE proposed an amendment to amendment No. 3210 proposed by Mr. METZENBAUM to the bill H.R. 11, supra, as follows:

On page 3, line 19, at the appropriate place, insert:

(2) EXCEPTION FOR CERTAIN CONTRACTS.—The amendment made by subsection (a) shall not apply to any tax benefit described in section 11(a)(4) of the Homeowners Loan Act (12 U.S.C. 1468(a)(4)), as added by subsection (a), if the allocation of such tax benefit, and any payment pursuant to subsection (a)(4)(B), are made pursuant to or are governed by an arrangement that is part of a written contract with the savings association, or its holding company, that is expressly approved in writing by the applicable supervisory authority or deposit insurer, but only if—

(A) the contract was entered into before October 1, 1990,

(B) the contract remains in effect at the time of the allocation in question, and

(C) a portion of such approved tax benefit is allocated for the benefit of the FSLIC Resolution Fund.

## PRESSLER AMENDMENT NO. 3212

Mr. CHAFEE (for Mr. PRESSLER) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following:

TITLE —CAR THEFT PREVENTION AND DETERRENCE

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Car Theft Prevention and Deterrence Act".

**SEC. 02. PURPOSE.**

It is the purpose of this Act to take effective measures to thwart motor vehicle theft for transportation (including joyriding) and the use of stolen vehicles in the commission of a crime (including theft for profit, theft to defraud insurance companies, and carjacking).

SUBTITLE A—ENHANCED PENALTIES FOR AUTO THEFT

**SEC. 11. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.**

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

**"§ 2119. Motor vehicles**

"A person who, possessing a firearm (as defined in section 921), takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person by force and violence or by intimidation, or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 15 years, or both; and

"(2) if serious bodily injury (as defined in section 1365) results, shall be fined under this title, imprisoned not more than 25 years, or both; and

"(3) if death results shall be fined under this title, imprisoned for any number of years or for life, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

(b) SENSE OF CONGRESS.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, it is the sense of Congress that the Attorney General, acting

through the Federal Bureau of Investigation and the United States Attorneys, should continue to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and, as appropriate and consistent with the proper exercise of prosecutorial discretion, prosecute persons who violate that section and other Federal laws relating to car theft.

**SEC. 12. IMPORTATION AND EXPORTATION.**

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 13. TRAFFICKING IN STOLEN VEHICLES.**

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 14. CIVIL AND CRIMINAL FORFEITURE.**

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce.".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following new paragraphs:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce),

shall order that the person forfeit to the United States any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the violation.".

SUBTITLE B—TARGETED LAW ENFORCEMENT

**SEC. 31. PURPOSE.**

The purpose of this subtitle is to supplement the Edward Byrne Memorial State and Local Law Enforcement Assistance Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 500 et seq.) to help the States to curb motor vehicle thefts and the related violence.

**SEC. 32. DEFINITIONS.**

In this subtitle:

"Anti Car Theft Committee" means an entity the resources of which are devoted entirely to the activities described in section _34(b)(4).

"Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

"State" has the meaning stated in section 901 of title I of the Omnibus Crime and Control and Safe Streets Act of 1968 (42 U.S.C. 3791).

**SEC. 33. GRANT AUTHORIZATION.**

The Director shall make grants to Anti Car Theft Committee that submit applications in compliance with the requirements of this chapter.

**SEC. 34. APPLICATION.**

(a) SUBMISSION.—To be eligible to receive a grant under this chapter, the chief executive of an Anti Car Theft Committee shall submit an application to the Director.

(b) CONTENT.—An application under subsection (a) shall include the following:

(1) A statement that the applicant is either a State agency or an agency of a unit of local government.

(2) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not suppiant non-Federal funds that would otherwise be available for activities funded under the grant.

(3) A statement that the resources of the applicant will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the exportation of stolen vehicles.

(5) A description of the budget for the applicant for the fiscal year for which a grant is sought.

**SEC. 35. AWARD OF GRANTS.**

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the funds available under this subtitle for a fiscal year that is equal to the proportion of the number of motor vehicles registered in the State to the number of motor vehicles registered in all of the States.

(b) GRANT AMOUNTS.—

(1) SINGLE APPLICANT.—Subject to subsection (c), if one Anti Car Theft Committee in a State submits an application in compliance with section 34, the Director shall award to that committee a grant equal to the amount of funds allocated to the State under subsection (a).

(2) MULTIPLE APPLICANTS.—(A) Subject to subsection (c), if 2 or more Anti Car Theft Committees in a State submit applications in compliance with section 34, the Director shall award to those committees grants that in sum are equal to the amount of funds allocated to the State under subsection (a).

(B) The Director shall allocate funds among 2 or more Anti Car Theft Committees in a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient committees in the State.

(c) LIMITATION.—In no case shall an Anti Car Theft Committee receive a grant in an amount that is greater than 50 percent of the amount budgeted for the committee prior to the making of the award.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

**SEC. 36. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle $10,000,000 for each of fiscal years 1993, 1994, and 1995.

SUBTITLE C—REPORT REGARDING STATE MOTOR VEHICLE TITLING PROGRAMS TO COMBAT MOTOR VEHICLE THEFTS AND FRAUD

**SEC. 41. TASK FORCE.**

(a) ESTABLISHMENT.—The Secretary of Transportation and the Attorney General, acting jointly, may, as soon as practicable after the date of enactment of this Act but not later than 180 days after that date, establish a task force to study problems that relate to motor vehicle titling and controls over motor vehicle salvage that may affect the motor vehicle theft problem.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation or the Secretary's delegate;

(2) the Attorney General or the Attorney General's delegate;

(3) the Secretary of Commerce or the Secretary's delegate;

(4) the Secretary of the Treasury or the Secretary's delegate;

(5) at least 3 representatives to be designated by the Attorney General;

(6) at least 5 representatives of State motor vehicle departments to be designated by the Secretary of Transportation; and

(7) at least 1 representative of each of the following groups to be designated by the Secretary of Transportation:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Automobile Theft Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation or the Secretary's delegate shall serve as chair of the task force. The task force may also invite representatives of the Governors and State legislatures to participate.

(d) STUDY REQUIREMENTS.—The study required by subsection (a) shall—

(1) include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles

allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles; and

(2) consider the adoption of a title brand on all certificates of title indicating whether a vehicle—

(A) has previously been issued a title brand;

(B) has been rebuilt or reconstructed; or

(C) has been damaged by flood.

(e) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date on which the task force is established, the task force shall submit to the President, the Congress, and the chief executive officer of each State a report containing the results of the study required by subsection (a).

(2) CONSULTATION AND REVIEW.—The report described in paragraph (1) shall be made after consultation with interested persons and a review of laws, practices, studies, and recommendations regarding the matters described in subsection (d).

(3) CONTENTS.—The report described in paragraph (1) shall—

(A) specify the important aspects of motor vehicle antitheft measures necessary to prevent—

(i) the disposition or use of stolen motor vehicles or the major components of motor vehicles; and

(ii) the commission of insurance and other fraud based on false reports of stolen vehicles;

(B) identify antitheft measures for which national uniformity is crucial to the effectiveness of the measure;

(C) recommend ways of obtaining any national uniformity that is necessary; and

(D) include recommendations for legislative or administrative action at the State or Federal level and for action by industry and the public to deal with the problem of motor vehicle theft.

DASCHLE AMENDMENT NO. 3213

Mr. DASCHLE proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of the Committee Substitute, insert:

TITLE —STUDY OF JAPAN'S CAPITAL AND SECURITIES MARKETS

**SEC. . SHORT TITLE.**

This title may be cited as the "Foreign Capital and Securities Markets Study Act of 1992".

**SEC. . FINDINGS.**

The Congress finds that—

(1) Japan's capital and securities markets have assumed a global significance;

(2) growing interaction between the capital and securities markets of the United States and Japan can affect national policies on exchange rates, investment, fiscal policy, and public debt;

(3) Japan's capital and securities markets have different structures, operations, practices, and regulatory regimes than United States markets;

(4) the different structures, operations, practices, and regulatory regimes of Japan's capital and securities markets could cause significant economic effects in the United States; and

(5) a study by the Secretary of the Treasury therefore is required to gain a fuller understanding of the structures, operations, practices, and regulation of Japan's capital and securities markets and their implications for the United States.

**SEC. . STUDY OF CAPITAL AND SECURITIES MARKETS.**

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall conduct a study of the capital and securities markets of Japan in accordance with subsection (b). Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the structures, operations, practices, and regulation of Japan's capital and securities markets, and their implications for the United States.

(b) STUDY TOPICS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) with regard to Japan's capital and securities markets—

(A) methods used by Japanese companies to raise capital, and the cost of such capital, at present and historically;

(B) Japanese methods of corporate governance, particularly with regard to the effectiveness of shareholder meetings, proxy solicitations, and other methods of shareholder participation, the strength of the consumer movement in Japan and its implications for shareholder rights, techniques used by corporate management regarding shareholder participation in corporate governance, and the general effectiveness of shareholder rights in the supervision of corporate managers;

(C) practices and techniques used by Japanese securities brokers and dealers;

(D) the prevalence of loss guarantees and similar practices in securities dealing;

(E) the prevalence of companies having common directors, especially directors common to financial institutions and client industrial companies;

(F) the practice known as "stable shareholding" and other reciprocal shareholding relationships, especially between vendors and customers;

(G) the role played by banks and other financial institutions in capital and securities markets, particularly with regard to equity participation, participation in corporate governance, investment practices, and adequacy of collateral;

(H) the financial strength of Japanese banks, including the adequacy of capital and loan loss reserves, the impact of current trends in securities values on bank capital, and the impact of current trends in real estate values on bank profitability, loan defaults and the adequacy of collateral;

(I) trends in Japanese real estate and securities values, particularly in relation to savings rates, the adequacy of collateral, loan defalcations, bankruptcies, investment in the United States, and capital repatriation from the United States;

(J) the adequacy of disclosure requirements imposed on industrial corporations, banks, securities houses, and other financial institutions and the extent of compliance by such organizations, including disclosure of primary bank and reciprocal or similar shareholding relationships;

(K) the use of securities and real estate holdings as collateral, and the implications of any decline in value of such collateral; and

(L) the adequacy of judicial relief available to foreign investors claiming injury under Japanese law, including, but not limited to, the availability of administrative remedies, the sufficiency and effectiveness of discovery procedures and the timeliness of relief; and

(2) with regard to the economic effects of such markets on the United States—

(A) the magnitude of United States investment in Japanese securities, particularly by United States pension funds, and the implications for United States investors of the structures, operations, practices, and regulation of Japan's capital and securities markets, including the safety of securities investments, the validity of price and volume signals on Japanese exchanges, the ability to participate in corporate governance, and other protections of shareholders' rights;

(B) the implications for United States securities markets, particularly the risk that developments in Japan could have consequences for the United States;

(C) the implications for United States capital markets, including international liquidity, United States interest rates, Japanese investment in the United States, capital repatriation to Japan, and domestic capital supply;

(D) the effect on United States macroeconomic policies, including interest rate policy, exchange rate policy, fiscal policy, monetary policy, and public debt policy;

(E) the implications for the competitiveness of United States enterprises, including the comparative cost of capital, duties to shareholders, research and development expenditures, and investments in plant and equipment; and

(F) the effectiveness of remedies available to United States investors in Japanese securities, and the amount of dealing in Japanese securities in the United States, whether directly or indirectly.

(c) CONSULTATIONS.—The Secretary shall consult with the Chairman of the Securities and Exchange Commission, the United States Trade Representative, and such other agencies or persons as the Secretary may deem necessary to complete the study and report required under this Act. The Secretary may consult with agencies of the Government of Japan, Japanese exchanges, and such other Japanese persons or organizations as the Secretary may deem appropriate.

**SEC. . DEFINITIONS.**

For purposes of this title the term "security" has the meaning given such term by section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

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SEYMOUR AMENDMENT NO. 3214

Mr. CHAFEE (for Mr. SEYMOUR) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1742, after line 24, insert the following:

**SEC. 7179. AMENDMENTS RELATED TO REPRESENTATIVE PAYEES.**

(a) CRITERIA FOR THE SELECTION OF REPRESENTATIVE PAYEES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue regulations regarding the criteria for the selection of representative payees under sections 205(j) and 1631(a)(2) of the Social Security Act within 180 days of the date of the enactment of this section.

(2) CONTENT OF REGULATIONS.—The regulations issued under subsection (a) shall contain criteria for the selection of representative payees and procedures for monitoring the performance of representative payees, as provided in subsection (b), (c), and (d) that are more stringent than the criteria and procedures set forth in the guidelines in effect on the date of the enactment of this section.

(b) DISQUALIFICATION OF CERTAIN CONVICTED FELONS AS REPRESENTATIVE PAYEES.—Section 1631(a)(2)(B)(iii) (42 U.S.C. 1383(a)(2)(B)(iii)) is amended—

(1) by striking "or" at the end of subclause (II);

(2) by striking the period at the end of subclause (III) and inserting "; or"; and

(3) by adding at the end the following new subclause;

"(IV) such person is applying on behalf of a drug addict or alcoholic (as defined in section 1611(e)(3)(A)) and has been convicted of—

"(aa) a violation of section 208 or 1632;

"(bb) a drug-related offense;

"(cc) a crime classified as a felony under State or Federal law; or

"(dd) in the case of a State which does not classify any crime as a felony, a crime which is punishable by death or imprisonment for more than 1 year.".

(c) PENALTY FOR MISUSE OF FUNDS.—

(1) AMENDMENTS TO SOCIAL SECURITY.—Section 205(j)(1) (42 U.S.C. 405(j)(1)) is amended by adding at the end the following new sentence: "Any representative payee who has misused any individual's benefit paid to such representative payee pursuant to this subsection may be subject to a fine or imprisonment under section 208.".

(2) AMENDMENTS TO SSI.—Section 1631(a)(2)(A)(iii) (42 U.S.C. 1383(a)(2)(A)(iii)) is amended by adding at the end the following new sentence: "Any representative payee of an individual or eligible spouse who has misused any benefits which have been paid to such representative payee pursuant to clause (ii) may be subject to a fine or imprisonment under section 1632.".

(d) EXCEPTION FOR CREDITORS WHO PROVIDE TREATMENT FOR SUBSTANCE ABUSE.—

(1) AMENDMENTS TO SOCIAL SECURITY.—Section 205(j)(2)(C) (42 U.S.C. 405(j)(2)(C)) is amended—

(A) in clause (iii)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new clause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

(2) AMENDMENTS TO SSI.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) in clause (v)—

(i) by striking "or" at the end of subclause (IV);

(ii) by redesignating subclause (V) as subclause (VI); and

(iii) by inserting after subclause (IV) the following new subclause:

"(V) a facility that is licensed or certified for the treatment of drug or alcohol abuse under the law of a State or a political subdivision of a State, or"; and

(B) in clause (iv), by striking "clause (iii)(V)" and inserting "clause (iii)(VI)".

## SASSER AMENDMENT NO. 3215

Mr. BENTSEN (for Mr. SASSER) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the bill insert the following:

**SEC. . MUNICIPAL BOND FUND STUDY.**

The Congressional Budget Office shall conduct a study of municipal bond funds currently operating in the United States and shall report its findings to the Committee on Finance and the Senate Budget Committee no later than December 31, 1992. The study shall (1) indicate the types of local capital projects supported by municipal bond funds, (2) the federal, State, and local budgetary impacts of municipal bond funds, and (3) the need, if any, of additional bonding authority for municipal bond funds under the 1986 Tax Act.

## MOYNIHAN AMENDMENT NO. 3216

Mr. MOYNIHAN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1743, line 16, after "1992" insert ", except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992".

On page 1744, line 18, strike "55 percent" and insert "40 percent".

On page 1745, line 6, strike "July 1, 1993" and insert "January 1, 1994".

On page 1747, line 9, strike "1993" and insert "1994".

On page 1749, strike lines 12 through 14, and insert:

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

(2) REGULATIONS.—The Secretary of the Treasury or his delegate shall, not later than July 1, 1993, prescribe such regulations as are necessary to implement the amendments made by this section and section 8003.

## PACKWOOD (AND OTHERS) AMENDMENT NO. 3217

Mr. PACKWOOD (for himself, Mr. MITCHELL, Mr. HATFIELD, Mr. FOWLER, Mr. NUNN, Mr. BREAUX, Mr. SYMMS, and Mr. THURMOND) proposed an amendment to the bill H.R. 11, supra; as follows:

On page 897, after line 21, insert:

**SEC. 2102. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.**

(a) APPLICATION OF MATERIAL PARTICIPATION RULES TO CERTAIN TIMBER ACTIVITIES.—

(1) IN GENERAL.—Treasury regulations sections 1.469-5T(b)(2)(ii), and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(i) by 5 or fewer individuals,

(ii) or by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this subsection.

(B) TIMBER ACTIVITY.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(b) PASSIVE ACTIVITY LOSSES AND CREDITS REDUCED UNDER SECTION 108.—

(1) IN GENERAL.—Section 108(b)(2) is amended by adding after subparagraph (E) the following new subparagraph:

"(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 108(b)(3) is amended by adding at the end the following new sentence: "The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

On page 1,811, after line 9, insert:

**SEC. . RESEARCH CREDIT BASE AMOUNT FOR START-UP COMPANIES.**

(a) IN GENERAL.—Clause (i) of section 41(c)(3)(B) (relating to the research credit definition of start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after September 30, 1992.

## LEVIN AMENDMENT NO. 3218

Mr. LEVIN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert the following new section:

**SEC. . CERTAIN FOSTER CARE PAYMENTS EXCLUDED FROM GROSS INCOME.**

(a) TREATMENT OF PAYMENTS.—Subparagraph (A) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

"(A) which is—

"(i) paid by a State or political subdivision thereof or a placement agency which is described in section 501(c)(3) and exempt from tax under section 501(a), or

"(ii) paid by the Federal Government and taken into account by such State, political subdivision, or placement agency in determining the amount of a payment described in clause (i), and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made on or after the date of enactment of this Act.

## REID AMENDMENT NO. 3219

Mr. BENTSEN (for Mr. REID) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1784, line 13, strike "or".

On page 1784, line 15, strike the period and insert ", or".

On page 1784, between lines 15 and 16, insert:

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either."

## LAUTENBERG AMENDMENT NO. 3220

Mr. BENTSEN (for Mr. LAUTENBERG) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1428, between lines 19 and 20, insert the following:

**SEC. 4722. EXPANSION OF WINE SPIRITS AUTHORIZED FOR USE IN WINE PRODUCTION.**

(a) IN GENERAL.—Subsection (a) of section 5373 (relating to wine spirits) is amended—

(1) by inserting "or" at the end of paragraph (1),

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) any wine (standard or other than standard) or wine residues therefrom under

such conditions as the Secretary may by regulations prescribe;", and

(3) by striking "natural wine or special wine" and inserting "standard wine or other than standard wine".

(b) EFFECTIVE DATE. The amendments made by this section shall take effect on the date of the enactment of this Act.

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## DASCHLE AMENDMENT NO. 3221

Mr. BENTSEN (for Mr. DASCHLE) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert:

**SEC. . STUDY OF TRAVEL EXPENSES OF LOGGERS.**

(a) STUDY.—The Secretary of the Treasury shall conduct a study with respect to the deductibility of the travel expenses of an individual who is in the trade or business of cutting and skidding timber. Such study shall include an analysis of the facts and circumstances under which such individual may deduct for Federal income tax purposes expenses incurred when traveling between the individual's home and the job site.

(b) REPORT.—The Secretary of the Treasury shall, not later than July 1, 1993, report the results of the study conducted under subsection (a), including a recommendation as to whether or not travel expenses described in subsection (a) should be allowed as a deduction for Federal income tax purposes.

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## METZENBAUM AMENDMENT NO. 3222

Mr. METZENBAUM proposed an amendment to the H.R. 11, supra, as follows:

On page 1353, line 23, delete "75" and insert "50".

On page 1354, line 9, delete "75" and insert "50".

On page 1354, line 12, delete "25" and insert "50".

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## PACKWOOD AMENDMENT NO. 3223

Mr. PACKWOOD proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT

**SEC. 01. SHORT TITLE.**

This title may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

**SEC. 02. FINDINGS AND POLICY.**

(a) FUNDING.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44–225, 45–197, and most recently 46–215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46–215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the 100th Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Central Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46–215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46–215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

Subtitle A—High Seas Large-Scale Driftnet Fishing

**SEC. 21. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.**

(A) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within 90 days, shall direct the Secretary of the Treasury to prohibit the importation into the United States

of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is 45 days after the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than 6 months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

**SEC. 22. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS.**

Any denial of port privileges or sanction under section 21 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

**SEC. 23. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.**

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subpargraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

**SEC. 24. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subpargraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed 5 kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

Subtitle B—Fisheries Conservation Programs

**SEC. 31. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.**

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products", and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products", and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products", and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

**SEC. 32. ENFORCEMENT.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

**SEC. 33. TRADE NEGOTIATIONS AND THE ENVIRONMENT.**

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

SUBTITLE C—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

**SEC. 51. SHORT TITLE.**

This subtitle may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

**SEC. 52. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.**

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

**SEC. 53. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.**

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December

31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

(b) PUBLICATION OF LIST.—Not later than 45 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous 90 days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

**SEC. 54. DURATION OF PORT PRIVILEGES DENIAL.**

Any denial of port privileges under section 53 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 53(b).

**SEC. 55. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.**

(a) REGULATIONS.—Within 180 days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 53(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 53(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is 90 days after such person terminates ownership and control is fishing vessels that are listed on the addendum under section 53(b).

**SEC. 56. DEFINITIONS**

In this subtitle, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than 200 nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organize under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

**SEC. 57. TERMINATION.**

This subtitle shall cease to have force and effect after the date that is 7 years after the date of enactment of this Act, except that any proceeding with respect to violations of section 52 occurring prior to such termination date shall be conducted as if that section were still in effect.

SUBTITLE D—MISCELLANEOUS PROVISIONS

**SEC. 71. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.**

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

**SEC. 72. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.**

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for 2 years, and may be further extended for 1 year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

**SEC. 73. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.**

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

**SEC. 74. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.**

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

## BREAUX (AND OTHERS) AMENDMENT NO. 3224

Mr. BREAUX (for himself, Mr. HOLLINGS, and Mr. RIEGLE) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —FEES

**SEC. 01. RECREATIONAL BOAT TAX REPEAL.**

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and.

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.".

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

**SEC. 02. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 19834 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

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## BENTSEN AMENDMENT NO. 3225

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1622, between lines 3 and 4, insert the following:

**SEC. 7005. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with

the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any self-employment income on which such tax would have been imposed but for such exemption shall not be credited under section 212 of the Social Security Act, and, if such individual's primary insurance amount has been determined under section 215 of such Act, notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services shall recompute such primary insurance amount so as to take into account the provisions of this subsection.

**SEC. 7006. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.**

Section 203(h)(1)(A) (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

On page 1699, between lines 15 and 16, insert the following:

**SEC. 7135. NEW HOPE DEMONSTRATION PROJECT.**

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount no greater than the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (referred to in this section as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the date of enactment of this Act.

On page 1703, between lines 3 and 4, insert the following:

**SEC. 7144. MODIFICATION OF THE 20-HOUR RULE.**

(a) IN GENERAL.—Section 403(1)(3)(D) (42 U.S.C. 603(1)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) For purposes of this paragraph, each hour of classroom instruction of an individual who is enrolled in a degree program offered by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) shall be considered 2 hours of participation in the program under part F.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective on the date of the enactment of this Act.

On page 1703, strike lines 20 through 26 and insert the following:

"(1) IN GENERAL.—

"(A) DEFINITION.—For purposes of this section, the terms 'community works progress project' and 'project' mean an activity that results in a specific, identifiable service or product that, but for this section, would not otherwise be done with existing funds.

"(B) PROJECTS DESCRIBED.—A community works progress project conducted under this section shall serve a significant public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.

On page 1704, between lines 19 and 20, insert the following:

"(4) GRIEVANCE PROCEDURE.—

"(A) IN GENERAL.—Each organization conducting a community works progress project under this section shall establish and maintain a procedure for the filing and adjudication of grievances from participants in such project, labor organizations, and other interested individuals concerning such project, including grievances regarding proposed placements of such participants in such project.

"(B) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance under this paragraph shall be filed not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(C) DEADLINE FOR HEARING AND DECISION.—

"(i) HEARING.—A hearing conducted under this paragraph on any grievance shall be conducted not later than 30 days after the filing of such grievance.

"(ii) DECISION.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

"(D) ARBITRATION.—

"(i) IN GENERAL.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding.

"(iii) DEADLINE FOR DECISION.—A decision concerning a grievance subject to an arbitration proceeding shall be made not later than 30 days after the date such arbitration proceeding begins.

"(iv) COST.—The cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(E) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a community works progress project conducted under this section, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this paragraph.

"(F) REMEDIES.—Remedies for a grievance filed under this paragraph include—

"(i) suspension or termination of payments under this section for a community works progress project; and

"(ii) prohibition of the placement described in subparagraph (E).

On page 1719, line 16, strike the end quotation marks and the end period.

On page 1719, between lines 16 and 17, insert the following:

"(j) INTERDEPARTMENTAL TASK FORCE.—

"(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Labor and the Secretary of Housing and Urban Development, shall establish a task force to identify any Federal funds (in addition to the funds authorized under subsection (i)) that may be directed for use in the community works progress projects under this section and to identify any modifications to existing policies or procedures that would facilitate the implementation of such projects.

"(2) MEMBERSHIP.—The Task Force shall consist of at least 3 members and shall include 1 representative from each of the following agencies:

"(A) the Department of Health and Human Services;

"(B) the Department of Labor; and

"(C) the Department of Housing and Urban Development.

"(3) REPORT.—Not later than January 1, 1993, the task force shall submit a report to the Secretary, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Congress that includes any findings and recommendations of the task force.

"(4) ACTION ON RECOMMENDATIONS.—The Secretary, the Secretary of Labor, and the Secretary of Housing and Urban Development shall take such actions as may be necessary to carry out the recommendations of the task force.".

Strike line 17 on page 1737 through line 14 on page 1738 and insert the following:

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended—

(1) by striking "lands" and inserting "lands, and income, including interest up to

$4,000 per annum derived from such income,"; and

(2) by striking "resource" and inserting "resource or income".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1992.

On page 1742, after line 24, insert the following:

**SEC. 7179. SELF-EMPLOYMENT PROGRAM.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Labor (hereafter in this section referred to as the "Secretary") may authorize not more than 10 States to establish and operate self-employment programs that meet the requirements of this section.

(b) REQUIREMENTS.—The Secretary may authorize a State self-employment program, if a State applies to participate in such program, and the Secretary determines that—

(1) the State program does not result in any cost to the Unemployment Trust Fund (established by section 904(a) of the Social Security Act) in excess of the cost that would be incurred by such State and charged to such Fund if the State had not participated in a self-employment program;

(2) the State program provides unemployment benefits only to individuals who are entitled to unemployment compensation under State law (without regard to any disqualification resulting from self-employment and without regard to any State law relating to availability for work, active search for work, or refusal to accept work);

(3) the State program contains a process to target individuals who have been permanently separated from their jobs or do not expect to be recalled to their jobs;

(4) benefits under the State program are available only to individuals who are likely to receive unemployment compensation for the maximum number of weeks that such compensation is available under the State law during a benefit year;

(5) the aggregate amounts of benefits payable to an individual under the State program with respect to any benefit year is limited to not more than 80 percent of the maximum amount of regular unemployment compensation payable to such individual for such benefit year; and

(6) the aggregate number of individuals receiving benefits under the State program does not at any time exceed 5 percent of the number of individuals receiving compensation under the State law at such time.

(c) BENEFITS.—If the Secretary authorizes a self-employment program for a State under this section, the State may use the State unemployment fund to provide cash unemployment benefits, exclusive of the expenses of administration, to individuals participating in the program. Such benefits shall be used to assist participating individuals in becoming self-employed.

(d) REPORTS.—

(1) STATE REPORTS.—Any State operating a self-employment program authorized by the Secretary under this section shall report annually to the Secretary on the number of individuals who participate in the program, the number of individuals who are able to develop and sustain businesses, the operating costs of the program, compliance with program requirements, and any other relevant aspects of program operations requested by the Secretary.

(2) REPORT TO CONGRESS.—Not later than December 31, 1995, based on the reports received from States operating self-employment programs under this section, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the operation of the State programs. The report shall contain the Secretary's recommendations regarding establishment of a permanent self-employment program as part of the regular unemployment compensation program.

(e) DEFINITIONS.—For purposes of this section, the terms "compensation", "regular compensation", "benefit year", "State", and "State law" have the respective meanings given such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) TERMINATION.—The provisions of this section shall not apply after September 30, 1996.

**SEC. 7180. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.**

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "upon the request of such agency" and inserting ", and procedures which require the State to periodically report to any such agency the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency unless the agency requests not to receive such information"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting ", and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall be effective on October 1, 1993.

(2) EXCEPTION.—If the Secretary of Health and Human Services determines that a State is unable to comply with the amendments made by subsection (a), such State shall be exempt from compliance with such amendments until the State establishes an automated data processing and information retrieval system under section 454(24) of the Social Security Act, or October 1, 1995, whichever occurs earlier.

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## COCHRAN AMENDMENT NO. 3226

Mr. PACKWOOD (for Mr. COCHRAN) proposed an amendment to the bill H.R. 11, supra, as follows:

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

**SEC. . EXTENSION OF PERIOD FOR CREDIT OR REFUND OF CERTAIN OVERPAYMENTS OF WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.**

Notwithstanding section 6511 of the Internal Revenue Code of 1986 (relating to limitations on credit or refund), the time for filing a claim for credit or refund of any overpayment of the windfall profit tax on domestic crude oil under chapter 45 of such Code (as in effect before its repeal by Public Law 100-418) by the Wilkinson County School District, in the State of Mississippi, for any period ending before January 1, 1983, shall not expire before the close of the 1-year period beginning on the date of the enactment of this Act.

## START TREATY

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## PRESSLER EXECUTIVE AMENDMENT NO. 3227

(Order to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the resolution of ratification of the treaty between the United States of America and the Union of Soviet Socialist Republics on the reduction and limitation of strategic offensive arms; as follows:

Strike out the period at the end thereof and insert the following: ", subject to the following, which shall be included in the instrument of ratification of the Treaty:

"( ) DECLARATION:

"In accordance with Article II of the Protocol on the Joint Compliance and Inspection Commission (relating to convening a session of the Commission), the United States declares its intention to request the convening of a session of the Joint Compliance and Inspection Commission for the purpose, among others, of discussing the elimination of ICBM silo launchers located in the United States of America in ways that would minimize the impact of such elimination on the environment, including the impact on water wells and acquifers.

Mr. PRESSLER. Mr. President, I rise today to submit an amendment I intend to offer when the Senate considers the START Treaty's resolution of ratification.

Under the terms of the START Treaty, 150 Minuteman II missiles will be removed from my home State of South Dakota. As part of that process, the silo launchers for the ICBM's must also be eliminated. These silo launchers will be deactivated under the terms of article II, paragraph 6(a) of the protocol on procedures governing the conversion or elimination of items subject to the START Treaty which mandates that "the silo door shall be removed, dismantled, or destroyed and the silo headworks and the silo shall be destroyed by excavation to a depth of no less than eight meters, or by explosion to a depth of no less than six meters. * * *"

Thus, the Air Force had two alternatives for destruction. It could either excavate the silos to a depth of more than 26 feet or it could demolish the silos to a depth of approximately 19½ feet using explosives. After studying both options, it was determined that explosion would be the more cost-effective means of destruction.

Mr. President, ranchers in western South Dakota, who have hosted these missiles since the 1960's are concerned. These ranchers' livelihoods depend on a very basic commodity—water. Water is precious and often scarce in western South Dakota. These ranchers, quite understandably, are concerned over the impact the destruction of the missile silos could have on their wells and the underlying aquifers. Mr. President, I ask unanimous consent that articles

from the Kadoka Press and USA Today more fully describing this situation be printed in the RECORD at the conclusion of my remarks.

The Air Force has held several meetings with ranchers in South Dakota to discuss the detonation procedures and the findings of its environmental impact statement for this deactivation which studied the potential risk to wells and the water supply. I commend the Air Force for its efforts in this regard, but, because all of the ranchers' concerns have not yet been fully addressed, I believe more must be done to ensure that all possible risk is considered and mitigated.

For this reason, when the Senate takes up the matter of the START Treaty and its resolution of ratification, I intend to offer an amendment attaching a declaration to the resolution of ratification. My amendment declares the intention of the United States to request the convening of a session of the Joint Compliance and Inspection Commission for the purpose, among others, of discussing the elimination of ICBM silo launchers located in the United States in ways that would minimize the impact of such elimination on the environment, including the impact on water wells and aquifers.

I urge all of my colleagues to review this amendment and welcome their cosponsorship and support.

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

[From the Kadoka Press, July 9, 1992]

AREA RANCHERS EXPRESS CONCERNS ON DEACTIVATION OF MISSILE SITE

(By Doris Buxcel)

About 50 ranchers and businessmen from Wall, Kadoka, Philip, Belevidere, Cottonwood, Hereford, Union Center, White Owl and surrounding areas, and representatives from Senator Tom Daschle's office, Senator Larry Pressler's office and Representative Tim Johnson's office gathered at the Wall Community Center meeting room on Monday evening, to express opinions and concerns on the United States Air Force's decision to deactivate and detonate the bulkheads at the 150 missile sites in western South Dakota. There is one Launch Control Facility for every 10 missile sites.

Gene Williams, of Cottonwood, opened the meeting and invited all those in attendance to share their ideas, concerns and opinions concerning the proposed plan to detonate the bulk heads of the Launch Facilities. According to the "Start Treaty", each site must be disabled so that it can never be used again. Among the alternatives available the Air Force has chosen to use detonation or blasting of the bulkheads.

Among major concerns of ranchers, is the affect this will have on water supplies. How will blasting affect their wells and how or will it disrupt the aquifers that give Western South Dakota its water supply. A major concern is the quality of the water. Although the Air Force says that it is not likely any major damage would occur, it is possible.

If flow to wells is interrupted or stopped, it will be a direct threat to the livelihood of those who live in this area. The damage is not reversible and will be permanent.

Some concerns expressed at the meeting were, what would the use of 300-500 lbs of explosives per bulkhead do to the surrounding land. One rancher stated that when he dug his well he used only six sticks of explosive and caused the ground to be loosened from the bottom up for nearly a mile surrounding it. Consider the impact of 300-500 lbs. of explosives. Land for miles around would be damaged.

Water supply and quality was the main concern. It is feared that with the jar of the blasting, and the rubble falling down into the pit, there will be an interruption that could cause lead from the paint and heavy metal to leach into the aquifers or water supply. After salvage operations and demolition of the launcher headworks, the residual lead-based paint inside the launchers and the launch control facilities could leach into the ground water. Ground water could enter the launcher and the launch control facility and leach lead and other heavy metals from the paint. This is especially likely where it was necessary to install dewatering wells because of high water tables. Because the cathodic (vacuum tube) protection system and the dewatering wells would be dismantled and disabled, any launch facility in an area that has an unconfined aquifer with a depth of less than appropriately 60 to 90 feet would have eventual seepage of ground water into the launch tube.

Concern was presented on the affect the blasting could have on Artesian wells, and on buildings and foundations. A main concern was the wells supplying towns in the area with their water supplies. When the wells are in close proximity with the launch site, there is a possibility that it would affect the flow of water, the quality of the water or possibly cut it off for towns involved.

Thoughts on the cave-in of the site were presented, if the rubble was just let fall into the pit and not packed from the bottom up. Also when the sites are deactivated, what will become of the fences. If they are left to deteriorate, danger of cattle becoming caught is a possibility.

Discussion was held on the land being turned back to the landowners. Where do their responsibilities lie.

Some alternatives, other than blasting were discussed. Those being, using the sites for wells, filling them with dirt and gravel, or using a wrecking ball to demolish the bulk heads.

Gene Williams of Cottonwood expressed his opinion that each site should be treated specifically and the landowner should be contacted and included in the plans for capping the site.

State Representative Larry Gabriel, Cottonwood, was present, expressing his concerns as a landowner, and interest in the concerns and opinions of constituents in the area. He stated that he would see and talk to Governor George Mickelson the following day relating concerns of landowners.

Williams and representatives from the offices of Daschle, Pressler and Johnson told the group that the bids would not be let for the detonation of the sites for three to five months.

The representative from Senator Tom Daschle's office said that the ratification of the Start Treaty would not be completed until next year. This gives landowners and the State's Senators, Representatives and Governor adequate time to gather information and input from landowners and take it to the Federal Government and to Secretary of Defense, Dick Cheney at the Pentagon.

For any questions or concerns that you have you may contact Representative Tim Johnson's Office at 1-800-537-0025; Senator Tom Daschle's Office 1-800-424-9094; and Senator Larry Pressler's Office at 1-800-952-3591.

Another meeting has been tentatively scheduled for August 10, 1992 at 8:00 p.m. in the Wall Community Center. It is open to the public, and any person or persons that are interested, or have concerns are welcome to attend.

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[From USA Today, Sept. 17, 1992]

TREATY'S BIG RISK—S.D. RESIDENTS WORRY ABOUT THEIR WATER

(By Paul Hoversten)

CACTUS FLAT, SD.—To rancher Gene S. Williams, the imposing steel and concrete missile silo in his hayfield may be more threatening now that the Cold War is over.

"Now, there's a tremendous potential for a screw-up," says Williams, campaigning to preserve what for years made him a prime target if there had been a Soviet missile strike.

The Air Force must destroy this and 149 other Minuteman II missile silos in western South Dakota under terms of the U.S.-Soviet START treaty.

Another 150 silos in Missouri will be destroyed, and a similar number in Montana will switch to Minuteman III missiles under the treaty.

Though the treaty offers two options for destroying silos—explosives or excavation—the Air Force prefers the former for reasons of cost and environmental safety.

But Williams and other ranchers fear any explosions may crack their clay-walled wells or disrupt fragile million-year-old water tables that flow beneath the Black Hills.

"Blowing up the silos is a big risk," says Williams, 29, who got his first look inside one when the Air Force recently opened up the "Delta 6" missile site a quarter-mile from his house. "The main concern is, don't screw up our water."

At stake, says his wife, Linda, 24, is the livelihood of hundreds of ranchers like the Williamses, who raise stock cattle and hay on 5,000 acres. Many wells are 60 years or older.

"You can make or break a place with the demolition of a well," she says.

The Air Force installed most Minuteman II missiles in 1966, replacing the Minuteman I weapons that came four years earlier. Ranchers accepted the weapons out of a sense of patriotism, selling plots for silos to the government.

The missiles were the nation's first line of defense. Carrying a 1.5-ton nuclear warhead, they could travel 7,500 miles at speeds of 17,000 mph.

Williams and other ranchers want the silos kept intact and would like the first shot at buying back their property. They say the silos could be used to store water, grain or used oil.

They'll meet with Air Force officials next week in Wall and Sturgis and hope to raise the issue with Defense Secretary Dick Cheney when he speaks in Rapid City next month.

Destruction of the silos awaits final Senate approval of the treaty, a process that could delay detonation until 1995.

"It's folly to destroy something that's in place for no good reason," Williams says.

His father, Gene E. Williams, 76, thinks the silo could provide protection from storms. "It's the best cyclone cellar around," he says.

The Air Force says that only the Senate can change treaty provisions.

"We do care and want to do what's right," says Maj. Kevin Krejcarek of Ellsworth Air Force Base, which maintains the silos in South Dakota.

Compounding the problem is a lack of data on silo destruction. The Air Force has blown up Titan missile sites, but these would be the first Minuteman II facilities to go.

Many ranchers take the view of Wenzel Kovarik, 60, a physician in Rapid City who also keeps a ranch with a silo that is near two water wells.

"I'm happy we're at peace so we don't need the missiles anymore," says Kovarik, another opponent of silo destruction. "Everybody's glad to see these missiles go. Nobody's going to miss them."

## TAX ENTERPRISE ZONES ACT

### BREAUX AMENDMENT NO. 3228

Mr. BREAUX proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert the following:

**SEC. . HARBOR MAINTENANCE TAX ON SHIP PASSENGER FARES.**

(a) IN GENERAL.—Subparagraph (B) of section 4462(a)(5) (defining value) is amended to read as follows:

"(B) TRANSPORTATION OF PASSENGERS.—In the case of the transportation of passengers for hire, the term 'value' means the excess of—

"(i) the actual charge paid for such service or the prevailing charge paid for comparable service if no actual charge is paid, over

"(ii) the sum of—

"(I) the amount actually paid for pre- and post-cruise air or land transportation and lodging (including any separately-stated transportation or lodging taxes and the pro rata share of travel agent commissions properly allocable to such air or land transportation and lodging), and

"(II) the cost of separately-stated per-passenger taxes, fees, or charges imposed by domestic or foreign governmental entities."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation beginning on or after November 1, 1992.

### DOMENICI AMENDMENT NO. 3229

Mr. DOMENICI proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1778, line 20, strike the quotation marks.

On page 1778, between lines 20 and 21, insert the following new paragraph:

"(3) ASSIGNMENT OR SALE OF CONTRACT.—For purposes of this subsection—

"(A) IN GENERAL.—Any amount received by an individual from the sale or assignment to a qualified accelerated benefits corporation of a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount described in paragraph (1). The preceding sentence shall not apply to amounts for payment of cash surrender values, loans, or other benefits made by an insurer in accordance with the policy provisions.

"(B) QUALIFIED ACCELERATED BENEFITS CORPORATION.—The term 'qualified accelerated benefits corporation' means a corporation—

"(i) with respect to which the aggregate amount of money or other property received in exchange for equity in the corporation, as contributions to capital, or as paid-in surplus is at least $1,000,000;

"(ii) which is regularly engaged in purchasing or taking assignment of life insurance contracts on the lives of insureds who are terminally ill individuals;

"(iii)(I) which does business in the State in which the insured resides and in which

"(II) the business practices of which in States in which no qualifying legislation has been enacted (and no qualifying administrative regulations have been promulgated) do not materially differ from its business practices in States in which such legislation has been enacted (or such regulations have been promulgated); and

"(iv) which pays an amount equal to at least 60 percent of the face value of the life insurance as consideration for the sale or assignment to it of the policy.

"(C) For purpose of subparagraph (B)(iii)—

"(i) qualifying legislation means legislation enacted by a State legislature which, either alone or in conjunction with qualifying administrative regulations—

"(I) imposes obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on the lives of insureds who are terminally ill individuals with respect to confidentiality of medical information, disclosure of alternatives to accelerated benefits contracts, disclosure of tax consequences of accelerated benefits contracts, and full disclosure to the terminally ill individual of all material terms of the accelerated benefits contract and the life insurance policy, and

"(II) in order to enforce obligations described in subclause (I), authorizes the examination of business records and affairs of qualified accelerated benefits corporations, establishes procedures for investigations and for cease and desist and other orders, and imposes penalties for noncompliance; and

"(ii) qualifying administrative regulations means regulations promulgated by a State agency which, either alone or in conjunction with the qualifying legislation, impose obligations on companies regularly engaged in purchasing or taking assignments of life insurance contracts on lives of insureds who are terminally ill individuals in the areas described in clause (i) and authorize the enforcement of those obligations in the manner provided in clause (i).

"(D) TRANSITION RULE.—In the case of taxable years beginning before January 1, 1994, a corporation conducting its business substantially in accordance with the qualifying legislation enacted by any State or with qualifying administrative regulations promulgated by any State agency shall be treated as satisfying the requirements of subparagraph (C) regardless of whether the corporation conducts its business in that State."

On page 1778, line 23, after "1989" insert ", except that in the case of amounts received pursuant to a sale or assignment described in section 101(g)(3) of the Internal Revenue Code of 1986 (as added by paragraph (1)), such amendment shall only apply to amounts received after January 1, 1993".

### SPECTER AMENDMENT NO. 3230

Mr. BENTSEN (for Mr. SPECTER) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of title VIII, insert:

**SEC. . REPORTING OF REAL ESTATE TRANSACTIONS.**

(a) IN GENERAL.—Paragraph (2) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to real estate transactions closing after the date of enactment of this Act.

### BENTSEN AMENDMENT NOS. 3231 AND 3232

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

AMENDMENT NO. 3231

At the end of the Committee Substitute, insert:

**TITLE _____—TREASURY FORFEITURE FUND.**

**SEC. _____. SHORT TITLE.**

This title may be cited as the "Treasury Forfeiture Fund Act of 1992".

**SEC. _____. ESTABLISHMENT OF FUND.**

(a) IN GENERAL.—Chapter 97 of title 31, United States Code, is amended by inserting after section 9702 the following new section:

**"§9703. Department of the Treasury Forfeiture Fund**

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Department of the Treasury Forfeiture Fund' (referred to in this section as the 'Fund'). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

"(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

"(B) Payment for—

"(i) contract services;

"(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

"(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

"(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

"(D) Satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

"(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by

a Department of the Treasury law enforcement organization.

To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

"(E) Payment of amounts authorized by law with respect to remission and mitigation.

"(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

"(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

"(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

"(2) At the discretion of the Secretary—

"(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

"(B) purchases of evidence or information by—

"(i) a Department of the Treasury law enforcement organization with respect to—

"(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering), or

"(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

"(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

"(iii) the United States Secret Service with respect to a violation of—

"(I) section 1028, 1029, or 1030 of title 18,

"(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government, or

"(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any Federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;

"(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and

"(v) the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

"(I) section 842(h) of title 18,

"(II) section 844 (d), (e), (f), (g), (h), or (i) of title 18, or

"(III) section 924(c) of title 18;

"(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

"(E) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;

"(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;

"(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and

"(I) payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

"(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

"(ii) training;

"(iii) printing; and

"(iv) contracting for services directly related to—

"(I) the identification of forfeitable assets,

"(II) the processing of and accounting for forfeitures, and

"(III) the storage, maintenance, protection, and destruction of controlled substances.

"(b) LIMITATIONS.—

"(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

"(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

"(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

"(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

"(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

"(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

"(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of $10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

"(2) Funds made available under this subsection may be used to—

"(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

"(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

"(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(d) DEPOSITS AND CREDITS.—

"(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

"(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

"(B) all income from investments made under subsection (e); and

"(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

"(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

"(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

"(B) all income from investments made under subsection (e); and

"(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

"(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

"(f) REPORT TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—

"(1) a report on—

"(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

"(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

"(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

"(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(2) a report on—

"(A) the balance of the Fund at the beginning of the preceding fiscal year;

"(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

"(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

"(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more;

"(E) the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

"(F) the balance of the Fund at the end of the preceding fiscal year;

"(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

"(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101-576); and

"(I) an analysis of income and expenses showing the revenue received or lost—

"(i) by property category (such as general property, vehicles, vessel, aircraft, cash, and real property); and

"(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101-576).

"(g) APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

"(A) $25,000,000 for fiscal year 1993; and

"(B) $50,000,000 for each fiscal year after fiscal year 1993.

"(3)(A) Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary may transfer from the Fund not more than $10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).

"(B) Transfers pursuant to subparagraph (A) may be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a).

"(C) The Secretary of the Treasury shall reserve an amount not to exceed $30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year 1993, and at the end of each fiscal year thereafter, the Secretary shall reserve in the Fund an amount not to exceed $50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year.

"(4)(A)(i) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

"(ii) Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.

"(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall, subject to subparagraph (C), be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii) and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

"(C) Any obligation or expenditure in excess of $500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

"(h) RETENTION OR TRANSFER OF PROPERTY.—

"(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—

"(A) retain any of the property for official use; or

"(B) transfer any of the property to—

"(i) any other Federal agency; or

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) is one with which the Secretary of State has agreed;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).

"(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

"(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

"(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—

"(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

"(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

"(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

"(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

"(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

"(l) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

"(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11) of title 28 or any other law—

"(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

"(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

"(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an offi-

cer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

"(n) TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.—

"(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a 'participating Federal agency' is an agency that participates in the Department of Justice Assets Forfeiture Fund.

"(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

"(o) BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.—

"(1) Except as provided in paragraph (2) and section 5872(b) of the Internal Revenue Code of 1986, the provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws;

"(B) the remission or mitigation of such forfeiture; and

"(C) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms.

"(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Secretary.

"(p) DEFINITIONS.—For purposes of this section—

"(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term 'Department of the Treasury law enforcement organization' means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 97 of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new item:

"9703. Department of the Treasury Forfeiture Fund.".

**SEC. ____. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) ANTI-DRUG ABUSE ACT OF 1988.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—There may be transferred to and deposited into the Special Forfeiture Fund, amounts from—

"(1) the Department of Justice Assets Forfeiture Fund pursuant to section 524(c)(9) of title 28, United States Code, and

"(2) the Department of the Treasury Forfeiture Fund pursuant to section 9703(g)(3)(A) of title 31, United States Code.".

(b) TITLE 18.—

(1) Section 981(a)(1)(C) of title 18, United States Code, is amended—

(A) by inserting "471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545," after "section 215,";

(B) by inserting "842, 844," after "656, 657,"; and

(C) by inserting "1028, 1029, 1030," after "1007, 1014,".

(2) Section 982(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

"(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution; or

"(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.".

(c) TITLE 28.—Section 524(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

"(i) payments for—

"(I) contract services,

"(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties, and

"(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

"(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

"(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

"(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

"(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program),

"(II) training,

"(III) printing,

"(IV) the storage, protection, and destruction of controlled substances, and

"(V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;";

(B) by amending subparagraph (F) to read as follows:

"(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

"(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

"(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;";

(C) by striking "and" at the end of subparagraph (G);

(D) by redesignating subparagraph (H) as subparagraph (I);

(E) by inserting after subparagraph (G) the following new subparagraph:

"(H) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Fund;";

(F) in the first sentence of the flush paragraph following subparagraph (I) (as redesignated by subparagraph (D))—

(i) by striking "(A)(ii)" and inserting "(A)(iv)"; and

(ii) by striking "and (G)" and inserting "(G), and (H)";

(2) in paragraph (4)—

(A) by inserting "Federal," in subparagraph (B) before "State";

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.";

(3) in paragraph (6)(B), by striking clause (v) and inserting:

"(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more; and";

(4) in paragraph (9)(A)—

(A) by striking "(A)(ii)" and inserting "(A)(iv)"; and

(B) by striking "and (G)" and inserting "(G), and (H)";

(5) in paragraph (9)(E), by striking "to procure vehicles, equipment, and other capital investment items"; and

(6) by striking paragraph (11) and adding at the end thereof the following new paragraphs:

"(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

"(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.".

(d) TITLE 39.—

(1) Section 2003(b) of title 39, United States Code, is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes.".

(2) Section 2003(e)(1) of title 39, United States Code, is amended by inserting after the first sentence the following new sentence: "The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service.".

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AMENDMENT NO. 3232

On page 1811, after line 9, insert:

Subtitle D—Trade Provisions

**SEC. 8301. TREATMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS UNDER THE GENERALIZED SYSTEM OF PREFERENCES.**

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking "Union of Soviet Socialist Republics".

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## MITCHELL AMENDMENT NO. 3233

Mr. MITCHELL proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of subtitle C of title VI, insert:

**SEC. . TREATMENT OF FOOTWEAR AND LEATHER-RELATED PRODUCTS.**

(a) IN GENERAL.—U.S. Note 2 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) in paragraph (b), by inserting "footwear, leather-related products," after "apparel article,";

(2) by striking the flush sentence following subparagraph (ii); and

(3) by adding at the end thereof the following new paragraph:

"(c) As used in this note—

"(i) the term 'beneficiary country' means a country listed in general note 3(c)(v)(A); and

"(ii) the term 'leather-related products' means articles of handbags, luggage, flat goods, work gloves, and leather wearing apparel described in section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 222 of the Customs and Trade Act of 1990.

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## D'AMATO (AND MOYNIHAN) AMENDMENT NO. 3234

Mr. PACKWOOD (for Mr. D'AMATO, for himself, and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 11, supra, as follows:

The following text is added as subsection 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) and subsections (c)-(e) are renumbered subsections (d)-(f) respectively.

"(c) SPECIAL MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES OR IN OTHER FOREIGN COUNTRIES.—

"(1) SPECIAL PROVISION.—If—

"(A) merchandise sold in the United States is the same class or kind as any merchandise that is the subject of an antidumping duty order issued under section 736 on May 9, 1980 or August 28, 1991.

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which the relevant order applies or supplied directly or indirectly by an exporter or producer covered by the order, or from parts or components from suppliers that have historically supplied the parts or components to that exporter or producer or to any other exporter or producer covered by the order, or from any party related to the exporter, producer, or historical supplier, whether such parts or components are supplied from the foreign country or any third country(ies), or

"(B)(ii) before importation into the United States * * *

"(C) with respect to merchandise under paragraph (B)(ii), the administering authority determines that action is appropriate under such paragraph to prevent evasion of such order, and

"(D) the difference between the value of such merchandise sold in the United States and the value of the imported parts or components referred to in subparagraph (B)(i), or the merchandise referred to in subparagraph (B)(ii), is small.

The administering authority, after taking into account any advice provided by the Commission under subsection (f), may include within the scope of the relevant order the imported parts or components referred to in subparagraph (B)(i) that are used in the completion or assembly of the merchandise in the United States, or such imported merchandise referred to in subparagraph (B)(ii), at any time such order is in effect.

Parts or components not identified in subsection (c)(1)(B)(i) and merchandise not identified in subsection (c)(1)(B)(ii) shall not be included within the scope of the outstanding order if a finding of circumvention is made under this section.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components, or merchandise assembled or completed in a foreign country, in the relevant antidumping duty order under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B)(i) whether the manufacturer or exporter of the parts or components described in (1)(B)(i) is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order described in subparagraph (1)(A) applies, or

"(B)(ii) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B)(ii) is related to the person who uses the merchandise described in paragraph (1)(B)(ii) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(iii) whether imports into the United States of the parts or components described in subparagraph (1)(B)(i), or imports into the foreign country of the merchandise described in paragraph (1)(B)(ii) (I), (II) and (III), have increased after the filing of the petition, issuance of such order or, if the allegation of circumvention has been raised more than one year after the issuance of such order, have increased since the time circumvention is

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## PACKWOOD AMENDMENT NO. 3235

Mr. CHAFEE (for Mr. PACKWOOD) proposed an amendment to the bill H.R. 11, supra; as follows:

On page 1452, between lines 6 and 7, insert:

**PART V—OTHER PROVISIONS**

**SEC. 4841. EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.**

(a) 3-YEAR EXTENSION.—

(1) IN GENERAL.—Subsection (c) of section 7608 (relating to undercover operations) is amended by adding at the end thereof the following new paragraph:

"(6) TERMINATION.—The provisions of this subsection shall cease to apply on and after September 1, 1995; and all amounts expended pursuant to this subsection shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before such date."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1992.

(b) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and general use of the proceeds from the operation,

"(III) a description of the operation including the potential violation being investigated, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative

operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

**SEC. 4842. DISCLOSURE OF RETURNS ON CASH TRANSACTIONS.**

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, for appropriate law enforcement purposes prescribed by regulations, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i) or (8)" and inserting "(i)(3)(B)(i)", and

(C) by striking "or (12)" and inserting "(12), or (13)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (12)" and inserting "(12), or (13)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (13)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 4843. ALTERNATIVE METHODS OF VERIFYING RETURNS.**

(a) IN GENERAL.—Part IV of subchapter A of chapter 61 is amended by adding at the end the following new section:

**"SEC. 6066. AUTHORITY TO PRESCRIBE ALTERNATIVE METHODS OF VERIFYING RETURNS, ETC.**

"(a) AUTHORITY.—The Secretary may, on a trial basis, provide for methods (other than signing) for verifying returns, declarations, statements, or other documents required to be made under the internal revenue laws and regulations. Such authority shall apply during calendar years 1993, 1994, 1995, 1996 and 1997.

"(b) TREATMENT OF ALTERNATIVE METHODS.—Any document verified under any method adopted under subsection (a) shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(c) REPORT.—The Secretary shall, no later than December 31, 1995, report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of any trial conducted under subsection (a)."

(b) REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall study each trial conducted under section 6066 of the Internal Revenue Code of 1986 (as added by subsection (a)) and report to the Congress the results of such study not later than December 31, 1995. Such report shall include recommendations as to whether, and in what form, the authority under such section should be continued.

(c) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6066. Authority to prescribe alternative methods of verifying returns, etc."

**SEC. 4844. MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES NO LONGER EXCLUDED FROM EARNED INCOME CREDIT, ETC.**

(a) IN GENERAL.—Subparagraph (E) of section 32(c)(3) (defining qualified child) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply during any period during which the taxpayer is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end thereof the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1992.

**SEC. 4845. TAX TREATMENT OF CERTAIN COMBAT PAY.**

(a) MONTHLY EXCLUSION OF COMMISSIONED OFFICERS.—

(1) IN GENERAL.—Section 112(b) is amended by striking "$500" and inserting "the applicable amount".

(2) APPLICABLE AMOUNT.—Section 112(c) is amended by adding at the end the following new paragraph:

"(5) APPLICABLE AMOUNT.—

"(A) IN GENERAL.—The term 'applicable amount' means $2,000.

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning after December 31, 1994, the $2,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(i) $2,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied for purposes of this clause by substituting 'calendar year 1993' for 'calendar year 1989'."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to service in a combat zone after December 31, 1993.

(b) EXTENSION OF SPECIAL TAX TREATMENT FOR PRISONERS OF WAR AND MISSING IN ACTION OF PERSIAN GULF CONFLICT.—

(1) IN GENERAL.—Paragraph (1) of section 112(d), as amended by subsection (c)(2)(B), is amended by inserting "or the Persian Gulf conflict" after "Vietnam conflict".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 112(d) is amended by adding at the end the following new sentence: "For purposes of this subsection, an individual is in missing status as a result of the Persian Gulf conflict if, immediately before such status began, the individual was performing service in the combat zone designated by Executive Order 12744 during the period of combatant activities, or the individual was performing service in Southwest Asia and was entitled to special pay for hostile fire or imminent danger under section 310 of title 37, of the United States Code by reason of being in direct support of military operations in such combat zone during such period."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1991.

(c) CLASSIFICATION OF VIETNAM SERVICE.—

(1) IN GENERAL.—Section 112(c)(3) is amended by inserting ", and May 7, 1975 shall be considered the date of termination of combatant activities in the combat zone designated in Executive Order 11216" after "Executive Order 10195".

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 112(d)(3) is amended by striking ", and ends on the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

(B) Paragraphs (1) and (2) of section 112(d) are each amended by striking "during the Vietnam conflict as a result of such conflict" and inserting "as a result of the Vietnam conflict".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act, except that in the case of the Persian Gulf conflict, the amendment made by paragraph (2)(B) shall apply on and after January 1, 1991.

At the end of title VIII of the Committee amendment, insert:

**SEC. ____. UNRELATED BUSINESS INCOME TAX TREATMENT OF MAILING LISTS.**

(a) IN GENERAL.—Section 513 (defining unrelated trade or business) is amended by adding at the end the following new subsection:

"(i) EXCHANGES AND RENTALS OF MEMBER LISTS.—

"(1) IN GENERAL.—In the case of an organization to which this subsection applies for any taxable year, the term 'unrelated trade or business' does not include any trade or business which consists of—

"(A) exchanging names and addresses of donors to (or members of) such organization with any other person, or

"(B) renting such names and addresses to any other person, but only if the aggregate income from such rental for the taxable year does not exceed 10 percent of the organization's gross revenue for the taxable year.

"(2) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), and

"(B) any organization described in section 501(c)(4)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 513(h) is amended by striking "include—" and all that follows and inserting "include activities relating to the distribution of low cost articles if the distribution of such articles is incidental to the solicitation of charitable contributions."

(2) The subsection heading for section 513(h) is amended by striking "AND EXCHANGES AND RENTALS OF MEMBER LISTS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to exchanges and rentals of member lists before, on, or after the date of the enactment of this Act.

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## BREAUX (AND OTHERS) AMENDMENT NO. 3236

Mr. CHAFEE (for Mr. BREAUX, for himself, Mr. GRAHAM, Mr. MACK, Mr. JOHNSTON, Mr. INOUYE, and Mr. AKAKA) proposed an amendment to the bill H.R. 11, supra, as follows:

At the end of the Committee Substitute add the following new section.

**SEC. . APPLICATION OF LOW-INCOME HOUSING CREDITS AND MORTGAGE REVENUE BONDS TO NATURAL DISASTER AREAS.**

(a) LOW-INCOME HOUSING CREDITS.—

(1) SPECIAL RULES IN THE EVENT OF A NATURAL DISASTER.—

(A) WAIVER OF 24-MONTH COMPLETION REQUIREMENT.—Section 42(h)(1)(E) (relating to exception where 10 percent of cost incurred) is amended by adding at the end the following new clause:

"(iii) WAIVER IN CASE OF NATURAL DISASTER.—In the case of any qualified building located in a natural disaster area with respect to which an allocation is made before the occurrence of the natural disaster, the Secretary may extend the period described in clause (i) to not later than the close of the fourth calendar year following the calendar year in which the allocation is made."

(B) WAIVER OF WRITTEN INCOME CERTIFICATION REQUIREMENT.—Section 42(l) (relating to certification and other reports to Secretary) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR NATURAL DISASTER AREAS.—

"(A) IN GENERAL.—With respect any occupant of a low-income unit in any qualified low-income building located in a natural disaster area or any such occupant in any other qualified low-income building who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirements of paragraphs (1) and (2) regarding occupant income information until such information is reasonably obtainable.

"(B) DISCOVERY OF INELIGIBILITY.—If upon receipt of such information the income of any occupant of a low-income unit in the building is determined to exceed the income limitation under subsection (g), such unit shall continue to be treated as a low-income unit if no subsequently available residential rental unit in the building is occupied by a new resident whose income exceeds such income limitation and such occupant vacates the unit upon the later of the lease termination or 30 days after receipt of such information by the Secretary."

(C) WAIVER OF TENANT INCOME LIMITATIONS.—Section 42(g)(1) (defining qualified low-income housing project) is amended by adding at the end the following new sentence: "With respect to any tenant occupancy a unit in a qualified low-income housing project located in a natural disaster area who relocates to any other unit of a qualified low-income housing project, the Secretary may waive the income limitation of subparagraph (A) or (B) if the income of such tenant does not exceed 140 percent of such income limitation."

(D) WAIVER OF 6-MONTH RESIDENCE REQUIREMENT.—Section 42(i)(3)(B) (relating to exceptions to definition of low-income unit) is amended by adding at the end the following new clause:

"(v) WAIVER OF TRANSIENT RESIDENCE RULE IN CASE OF NATURAL DISASTER.—With respect to any unit in a building located in a natural disaster area or any unit occupied by individuals who immediately prior to such occupation resided in a natural disaster area, the Secretary may waive the requirement of clause (i) and allow the use of such unit on a transient basis."

(E) WAIVER ON 10-YEAR RULE FOR EXISTING BUILDINGS.—Section 42(d)(2)(D) (relating to special rules for subparagraph (B)) is amended by adding at the end the following new clause:

"(iv) WAIVER IN CASE OF NATURAL DISASTER.—The Secretary may waive the requirement of subparagraph (B)(ii) with respect to any building located in a natural disaster area."

(F) WAIVER OF THE NATIONAL POOL ALLOCATION.—Section 42(h)(3)(D)(iii) (relating to formula for allocation of unused housing credit carryovers among qualified States) is amended by inserting before the last sentence the following new sentence: "The Secretary may modify the formula described in the preceding sentence for any calendar year with respect to the allocation to any qualified State in which is located a natural disaster area to increase such allocation to take into account the effects of such natural disaster.

(G) NATURAL DISASTER AREA DEFINED.—Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) NATURAL DISASTER AREA.—The term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on July 1, 1992.

(b) MORTGAGE REVENUE BONDS.—

(1) WAIVER OF DOLLAR LIMITATION FOR HOME IMPROVEMENT LOANS FOR RESIDENCES IN NATURAL DISASTER AREAS.—Section 143(k)(4) (defining qualified home improvement loan) is amended by adding at the end the following new flush sentence:

"The $15,000 limitation specified in the preceding sentence shall not apply to any loan for residences located in a natural disaster area. For purposes of the preceding sentence, the term 'natural disaster area' means an area determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to financing provided on or after June 30, 1992, and before January 1, 1994.

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## McCAIN (AND OTHERS) AMENDMENT NO. 3237

Mr. CHAFEE (for Mr. MCCAIN, for himself, Mr. INOUYE, and Mr. DOMENICI) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 1811, after line 9, insert:

**Subtitle D—Indian Employment and Investment**

**SEC. 8221. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.**

(a) ALLOWANCE OF INDIAN RESERVATION CREDIT.—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) AMOUNT OF INDIAN RESERVATION CREDIT.—

(1) IN GENERAL.—Section 48 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) INDIAN RESERVATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

| "In the case of qualified Indian reservation property which is: | The Indian reservation percentage is: |
|---|---|
| Reservation personal property ..... | 10 |
| New reservation construction property. | 15 |
| Reservation infrastructure investment. | 15. |

"(2) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subpart—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,

"(II) new reservation construction property, or

"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.—The term 'qualified investment in qualified Indian reservation property' means—

"(i) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) RESERVATION PERSONAL PROPERTY.—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) QUALIFIED PERSONAL PROPERTY.—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,

"(II) residential rental real property, or

"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) NEW RESERVATION CONSTRUCTION PROPERTY.—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) QUALIFIED REAL PROPERTY.—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(ii).

"(G) RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.—

"(i) IN GENERAL.—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(ii) PROPERTY MAY BE LOCATED OUTSIDE THE RESERVATION.—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) REAL ESTATE RENTALS.—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) INDIAN RESERVATION DEFINED.—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(5) LIMITATION BASED ON UNEMPLOYMENT.—

"(A) GENERAL RULE.—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) SPECIAL RULE FOR LARGE PROJECTS.—In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than $1,000,000, subparagraph (A) shall apply by substituting 'during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year' for 'during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years'.

"(C) DETERMINATION OF INDIAN UNEMPLOYMENT.—For purposes of this paragraph, with respect to any Indian reservation, the Indian unemployment rate shall be based upon Indians unemployed and able to work, and shall be certified by the Secretary of the Interior."

(2) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; and," and

(C) by adding at the end thereof the following subparagraph:

"(E) new reservation construction property."

(c) RECAPTURE.—Subsection (a) of section 50 (relating to recapture in case of dispositions, etc.), is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR INDIAN RESERVATION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an Indian reservation credit—

"(i) is disposed of, or

"(ii) in the case of reservation personal property—

"(I) otherwise ceases to be investment credit property with respect to the taxpayer, or

"(II) is removed from the Indian reservation, converted or otherwise ceases to be Indian reservation property,

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 48(c) for all prior taxable years which would have resulted had the expenditures taken into account with respect to the property been limited to an amount which bears the same ratio that the property was held by the taxpayer bears to the applicable recovery period under section 168(g)."

(d) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property) is amended by striking "energy credit or reforestation credit" and inserting "energy credit, reforestation credit or Indian reservation credit other than with respect to any expenditure for new reservation construction property".

(e) CERTAIN GOVERNMENTAL USE PROPERTY TO QUALIFY.—Paragraph (4) of section 50(b) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and inserting after subparagraph (C) the following new subparagraph:

"(D) EXCEPTION FOR RESERVATION INFRASTRUCTURE INVESTMENT.—This paragraph shall not apply for purposes of determining the Indian reservation credit with respect to reservation infrastructure investment."

(f) CLERICAL AMENDMENTS.—

(1) The caption of section 48 is amended by deleting the period at the end thereof and adding "**; Indian Reservation Credit.**"

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 48 and inserting the following:

"Sec. 48. Energy Credit; reforestation credit; Indian reservation credit."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1992.

**SEC. 8222. INDIAN EMPLOYMENT CREDIT.**

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding after paragraph (8) the following new paragraph:

"(9) the Indian employment credit as determined under section 45(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of Part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

**"SEC. 45. INDIAN EMPLOYMENT CREDIT.**

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the Indian employment credit determined under this section with respect to any employer for any taxable year is 10 percent (30 percent in the case of an employer with at least 85 percent Indian employees) of the lesser of —

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year; or

(2) the credit limitation amount determined under subsection (e).

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term "qualified employee" means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation,

"(B) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed, and

"(C) the employee began work for such employer on or after July 1, 1992.

"(2) CREDIT ALLOWED ONLY FOR FIRST 7 YEARS.—An employee shall not be treated as a qualified employee for any period after the date 7 years after the day on which such employee first began work for the employer.

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1991 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (f)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual who is neither an enrolled member of an Indian tribe nor the spouse of an enrolled member of an Indian tribe, and

"(D) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903 (10)).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55."

"(e) CREDIT LIMITATION AMOUNT.—For purposes of this section—

"(1) CREDIT LIMITATION AMOUNT DEFINED.—The credit limitation for a taxable year shall be an amount equal to the credit rate (10 or 30 percent as determined under subsection (a)) multiplied by the increased credit base.

"(2) INCREASED CREDIT BASE.—The increased credit base for a taxable year shall be the excess of—

"(A) the sum of any qualified wages and qualified employee health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (paid or incurred by the employer) during the taxable year do not exceed the amount determined under paragraph (3) of subsection (c), over

"(B) the sum of any qualified wages and qualified employee health insurance costs paid or incurred during calendar year 1991 with respect to employees whose wages (paid or incurred by the employer) during 1991 did not exceed $30,000.

"(3) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months—

"(A) the amounts paid or incurred by the employer shall be annualized for purposes of determining the increased credit base, and

"(B) the credit limitation amount shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45. Indian employment credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1992.

**SEC. 8223. COORDINATION WITH ENTERPRISE ZONES.**

Nothwithstanding the provisions of subchapter U of chapter 1 of the Internal Revenue Code of 1986, no Indian reservation enterprise zones shall be designated, and no area within any Indian reservation shall be designated as a tax enterprise zone.

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## BENTSEN AMENDMENT NO. 3238

Mr. BENTSEN proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new section:

**SEC. ____. AMENDMENT TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.**

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) countries in the Western Hemisphere are currently considering more integrated and liberalized trade relations, including free trade agreements, free trade zones, restructured tariffs, debt relief, removal of foreign investment barriers, and other economic measures;

(B) Mexico and the United States have formally announced their plan to negotiate a possible bilateral free trade agreement similar to the agreement between the United States and Canada;

(C) a freer trade environment may improve the economies of Mexico and Latin American and Caribbean countries and in turn remove incentives for illegal immigration into the United States;

(D) the congressionally appointed Commission for the Study of International Migration and Cooperative Economic Development has recommended that the United States promote economic growth in Mexico, South and Central America, Canada, and the Caribbean, because the Commission believes such growth will decrease illegal immigration into the United States from these regions;

(E) the European economic integration process, which will be completed by 1992,

demonstrates the benefits that can be derived if countries trade with and interact economically with other countries in the same hemisphere;

(F) solid economic relationships between the United States and other Western Hemisphere countries involve complex issues which require continuing detailed study and discussion;

(G) the economic interdependency of Western Hemisphere countries requires that a center be established in the southern United States to promote better trade and economic relations among the nations of the Western Hemisphere; and

(H) such a center should be established in the State of Texas because that State is the primary bridge through which Latin America does business with the United States.

(2) PURPOSES.—The purposes of this section are to—

(A) establish a center devoted to studying and supporting better economic relations among Western Hemisphere countries;

(B) give the center responsibility for studying the short- and long-term implications of freer trade and more liberalized economic relations among countries from North and South America, and from the Caribbean Basin; and

(C) provide a forum where scholars and students from Western Hemisphere countries can meet, study, exchange views, and conduct activities to increase economic relations between their respective countries.

(b) ESTABLISHMENT OF THE CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.—The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) is amended by inserting after section 218 the following new section:

**"SEC. 219. CENTER FOR THE STUDY OF WESTERN HEMISPHERIC TRADE.**

"(a) ESTABLISHMENT.—The Commissioner of Customs, after consultation with the International Trade Commission (hereafter in this section referred to as the 'Commission'), is authorized and directed to make a grant to an institution of higher education or a consortium of such institutions to assist such institution in planning, establishing, and operating a Center for the Study of Western Hemispheric Trade (hereafter in this section referred to as the 'Center'). The Center shall be established not later than June 30, 1993.

"(b) SCOPE OF THE CENTER.—The Center shall be a year-round program operated by an institution of higher education located in the State of Texas (or a consortium of such institutions), the purpose of which is to promote and study trade between and among Western Hemisphere countries. The Center shall conduct activities designed to examine negotiation of free trade agreements, adjusting tariffs, reducing nontariff barriers, improving relations among customs officials, and promoting economic relations among countries in the Western Hemisphere.

"(c) CONSULTATION; SELECTION CRITERIA.—The Commissioner of Customs and the Commission shall consult with appropriate public and private sector authorities with respect to planning and establishing the Center. In selecting the appropriate institution of higher education, the Commissioner of Customs and the Commission shall give consideration to—

"(1) the institution's ability to carry out the programs and activities described in this section; and

"(2) any resources the institution can provide the Center in addition to Federal funds provided under this program.

"(d) PROGRAMS AND ACTIVITIES.—The Center shall conduct the following activities:

"(1) Provide forums for international discussion and debate for representatives from countries in the Western Hemisphere regarding issues which affect trade and other economic relations within the hemisphere.

"(2) Conduct studies and research projects on subjects which affect Western Hemisphere trade, including tariffs, customs, regional and national economics, business development and finance, production and personnel management, manufacturing, agriculture, engineering, transportation, immigration, telecommunications, medicine, science, urban studies, border demographics, social anthropology, and population.

"(3) Publish materials, disseminate information, and conduct seminars and conferences to support and educate representatives from countries in the Western Hemisphere who seek to do business with or invest in other Western Hemisphere countries.

"(4) Provide grants, fellowships, endowed chairs, and financial assistance to outstanding scholars and authorities from Western Hemisphere countries.

"(5) Provide grants, fellowships, and other financial assistance to qualified graduate students, from Western Hemisphere countries, to study at the Center.

"(e) DEFINITIONS.—For purposes of this section—

"(1) WESTERN HEMISPHERE COUNTRIES.—The terms 'Western Hemisphere countries', 'countries in the Western Hemisphere', and 'Western Hemisphere' mean Canada, the United States, Mexico, countries located in South America, beneficiary countries (as defined by section 212), the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(f) FEES FOR SEMINARS AND PUBLICATIONS.—Notwithstanding any other provision of law, a grant made under this section may provide that the Center may charge a reasonable fee for attendance at seminars and conferences and for copies of publications, studies, reports, and other documents the Center publishes. The Center may waive such fees in any case in which it determines imposing a fee would impose a financial hardship and the purposes of the Center would be served by granting such a waiver.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as may be necessary in the 3 succeeding fiscal years to carry out the purposes of this section.

## SASSER (AND OTHERS) AMENDMENT NO. 3239

Mr. SASSER (for himself, Mr. RIEGLE, Mr. DANFORTH, and Mr. GORTON) proposed an amendment to the bill H.R. 11, supra, as follows:

At the appropriate place in the Committee amendment, insert:

**SEC. . TREATMENT OF CERTAIN TRANSPORTATION INCOME.**

(a) IN GENERAL.—Section 863(c)(1) is amended to read as follows:

"(1) TRANSPORTATION INCOME BEGINNING AND ENDING IN THE UNITED STATES AND CERTAIN LEASING INCOME.—The following items of gross income shall be treated as income from sources within the United States:

"(A) All transportation income attributable to transportation which begins and ends in the United States.

"(B) All transportation income attributable to the leasing of aircraft (excluding containers) directly or indirectly to a United States resident, (as defined in section 865(g)), for use by the United States resident, except that this subparagraph shall only apply to income from the leasing of aircraft manufactured in the United States."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any lease agreement made after July 1, 1993, in taxable years ending after such date.

## ADDITIONAL STATEMENTS

### A WINDOW OF OPPORTUNITY TO CURB TV VIOLENCE

• Mr. SIMON. Mr. President, we have just passed the midpoint of the 3-year Television Violence Act, signed into law in December 1990.

The act temporarily waives antitrust laws to allow the members of the television industry to devise, consider, and implement voluntary guidelines on televised violence. By now, the research evidence clearly shows that excessive violence on TV harms children and contributes to the rising level of violence in our society.

In the last 2 months the three major broadcast networks have used the law to convene meetings to discuss this issue, and the cable industry has commissioned a study on this subject that is due in the next few weeks.

Though these signs of movement are welcome, it remains to be seen whether the television industry will let this law expire at the end of next year without coming up with meaningful new efforts to reduce the amount of violence on our airwaves. It also remains to be seen whether the viewing public will allow this to happen without letting their voices be heard.

Mr. President, I call to the attention of my colleagues an editorial on this subject from the Salem News in Salem, OH, that recently came to my attention. I ask unanimous consent that it be printed in the RECORD in full.

The editorial follows:

SIMON SAYS: DO TOUCH THAT DIAL

Sen. Paul Simon (D-Ill.) is adamant that violence on television is causing violence in our society. But what can be done about it in a free society?

We are now midway through the three-year Television Act, signed into law in December, 1990. Through the act, authored by Simon, the television industry (networks, cable, independents, producers and creative talent, and local stations) was granted a three-year exemption to develop and implement voluntary, industry-written guidelines on TV violence. But with the exception of the cable industry, Simon reports, the television industry "seems to be in a test pattern, hoping the law will lapse before the public notices."

The National Cable Television Association has responded by commissioning an intensive study of TV violence in cable programming, and due later this year.

In the meantime, Simon says in a release, "research evidence continues to mount showing that excessive exposure to TV violence harms children and contributes to real-life violence in society."

Simon took the Senate Floor recently to mark the mid-point and to call public attention to the industry's inaction. The following information appeared in the Congressional Record of Tuesday, June 30, 1992, in which Simon (in addition to his own statements) submitted the article "Television and Violence" by Dr. Brandon S. Centerwall of the Department of Psychiatry and Behavioral Sciences, University of Washington, Seattle.

Simon said in defense of "real news" reporting, "violence on the news does not glamorize violence. Entertainment violence glamorizes violence."

Centerwall's article says "the impact of television on children is best understood within the context of normal child development." Children are born "with an instinctive capacity and desire to imitate adult human behavior." However, they "do not possess an instinct for gauging whether a behavior ought to be imitated." A young child cannot always distinguish fact from fantasy.

The Centerwall article says as children get older they know better, "but the earliest and deepest impressions were laid down when the child saw television as a factual source of information about a world outside their homes where violence is a daily commonplace and (where) the commission of violence is generally powerful, exciting, charismatic, and efficacious."

The lengthy Centerwall article contains detailed statistical accounts of how the introduction of television in certain societies has affected the homicide rate (when the "television generation" of that society comes of age).

But, says Centerwall, just as "in the war against tobacco, the tobacco industry is the last group from whom we'd expect any meaningful action," so we cannot expect the television industry (which is "in the business of selling audiences to advertisers") to take voluntary action that would have a negative impact on its revenue.

Centerwall says, for example, if the demand for tobacco decreases by 1 percent, that industry would lose $250 million annually. Likewise, if the television audience were to decrease by 1 percent, the television industry could lose $250 million annually in advertising revenue.

Back to the basics. The solution. "For children, less TV is better, especially violent TV," says the Centerwall article.

Centerwall's summary is sensible: "It is not reasonable to address the problem of motor vehicle fatalities by calling for a ban on cars. Instead, we emphasize safety seats, good traffic signs, and driver education. Similarly, to address the problem of violence caused by exposure to television, we need to emphasize time-channel locks, program rating systems, and education of the public regarding good viewing habits."•

## IN RECOGNITION OF THE CONTRIBUTIONS OF CHIEF OREN LYONS OF THE ONONDAGA NATION OF THE IROQUOIS CONFEDERACY TO THE PUBLICATION OF "EXILED IN THE LAND OF THE FREE"

• Mr. INOUYE. Mr. President, I rise today in recognition of the important contributions that a highly respected Indian leader, Chief Oren Lyons of the Onondaga Nation of the Iroquois Confederacy, has made to a publication that will be officially presented to the Select Committee on Indian Affairs on October 12, 1992. I am proud to call this great leader my friend and advisor.

Mr. President, in November of 1986, I assumed the position of the chairman of the Senate Select Committee on Indian Affairs. At that time, I am sad to report that like many other Americans, I knew very little about the contributions that this Nation's first Americans have made to the fabric of American society. I was soon to learn that the ignorance regarding the native people of America is pervasive.

Apparently, few Americans are aware that the fundamental structure of our democratic form of government has its origins in the Iroquois Confederacy. Many may not know that the debates of the Continental Congress contain many references to the Indian nations. Few know that it was the Indians who enabled Gen. George Washington and his troops to survive the winter at Valley Forge. It is not well known that Indian people fought side by side with the soldiers of the American Revolution, nor is it well known that more American Indians have served in the Armed Forces of the United States in every military action since the time of the Revolutionary War, in numbers proportionately far greater than any other ethnic group in the United States.

Many Americans have no idea that historians and anthropologists suggest that there were a minimum of 10 million, and as many as 50 million native people residing in the land that subsequently became the United States prior to European contact. And because the era known as the Indian wars era is not typically documented in basic history primers, it may well be that most Americans are unaware that the effort to control greater areas of land then occupied by the Indians, decimated the Indian population so effectively that there were approximately 250,000 Indian people remaining in the United States at the end of the Indian wars era.

Nor is the fact that Indian people once exercised dominion and control over 550 million acres of land, and that through conquest, and all too frequently misrepresentation, those lands were systematically taken from the Indians, so that today, they are left with less than 50 million acres of land.

The Indian nations entered into 800 treaties with the United States. These were solemn and sacred documents that promised the Indians that "as long as the rivers flow, and the Sun rises in the east", the lands and the resources that had been secured to them would be protected in perpetuity. In exchange for the cession of vast amounts of land, the Indians were promised that the Great White Father would provide them with health care and education for all the generations to come.

The Indian people lived up to the commitments they made in those treaties. They sacrificed their ancestral homes, the lands upon which they hunted and fished and gathered berries and roots for their subsistence. They were and remain today people who revere the mother Earth and her bounty, people who were environmentalists and conservationists long before those terms gained common currency.

However, those 800 treaties were only honored unilaterally. The U.S. Senate refused to ratify 430 of them, even though the Government charged the Indians with living up to the terms of those treaties. Even more tragically, of the 370 treaties that were ratified, the United States proceeded to violate provisions in every single one.

Perhaps it is because there are many chapters in what we term "American" history which record atrocities and cruelties of the worst kind imposed upon the native people of America, that our history books evidence a reluctance to view American history from the perspective of native people.

So it is with much enthusiasm that I commend this publication to the American people. Our children and their children should know the true story of our history. They should read from those pages of history of which we can be proud, and they should also know that there are a people of this Nation upon whose ancestral lands we now reside—a people who sacrificed their homelands so that we could build a country called America—a people who despite the great adversity we thrust upon them, gave generously of themselves in every respect. This is a chapter of history that we must all have the opportunity to learn and a chapter that we, as Americans, must never forget.

Mr. President, I call upon my colleagues to join me in expressing our deep appreciation to Chief Oren Lyons for his years of dedication to this effort.•

## PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators who have inquired with respect to the schedule for next week, the Senate will begin consideration of the ratification of the START Treaty at 1 p.m. on Monday, September 28. There will be no rollcall votes on that day. Those Senators who wish to proceed to participate in that debate should be present.

It had been my hope and my intention that we could proceed to consideration of that bill without the necessity of filing a cloture motion. But as all Senators know who were present last evening, the distinguished Senator from Wyoming, Senator WALLOP, ex-

pressed his objection to proceeding in the manner which I proposed, and therefore, having no alternative, I filed a cloture motion on the START Treaty today. Under Senate rules, that cloture motion will ripen on Tuesday morning. Unless there is agreement to the contrary, a vote on cloture on the START Treaty will occur approximately 1 hour after the Senate convenes on Tuesday morning.

It is presently my intention that the Senate will convene at or about 9 a.m. on Tuesday, and therefore a cloture vote on START should occur at approximately or shortly after 10 a.m. on Tuesday morning.

When we complete action on the START Treaty, it is my intention to attempt to turn to consideration of the authorization bill for the National Institutes of Health, which includes important provisions regarding fetal tissue research. Since I cannot now know when we will complete action on the START Treaty, I am unable to state precisely when we will begin that consideration or under what circumstances. But I want Senators to know of my intentions in that regard.

We have a number of other important measures to consider during what I expect will be the final week of this Congress, and therefore Senators should plan on late sessions with many votes during the day beginning next Tuesday morning and extending through the following Monday night, October 5. The target date for final adjournment is Monday, October 5.

Sessions are possible every day including next Saturday and Sunday, if necessary. I am determined that we will complete this Congress by October 5, and state now my intentions so all Senators can be on notice. I will do everything within my power to see that we achieve that objective, and that means long and busy sessions next week.

I hope Senators will understand that in the interest of completing action on the remaining important measures we have but concluding not later than the close of business on Monday, October 5.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if I might ask the distinguished majority leader a question.

Mr. MITCHELL. Yes.

Mr. CHAFEE. We all appreciate the definitiveness with which the Senator has outlined the schedule because I think that is splendid. We now know that we have to be here certainly by Tuesday at 10 o'clock and previously thereto to get some of the debate in connection with the START Treaty. I know that the majority leader has stuck to his guns in trying to get out early. I thought it was going to be October, maybe 4, but no later than October 5 is now the goal.

Mr. MITCHELL. Yes, that is correct.

Mr. President, let me state to the Senator——

Mr. CHAFEE. And that is fine by me. I think it is wonderful, and I hope we can achieve it. Certainly, as a Senator, I will do everything I can to be helpful.

Mr. MITCHELL. As the Senator knows, the one aspect of the public business which we must by law complete prior to final adjournment is, of course, enactment of all of the appropriations bills. It had been my hope that we could do so prior to the end of this fiscal year at midnight next Wednesday. It now appears that will not be possible, although I think we will be very close.

Therefore, it is my understanding, following meetings with the House leadership and the distinguished Republican leader in the Senate and others, that the best and most realistic objective is the close of business on Monday, October 5. It is my intention to do everything I can to see we meet that objective.

## ORDERS FOR MONDAY, SEPTEMBER 28, 1992

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon on Monday, September 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 1 p.m., with the time under the control of the majority leader or his designee; that at 1 p.m. on Monday, the Senate proceed into executive session to consider Treaty Document No. 102–20, the START Treaty.

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

## RECESS UNTIL MONDAY, SEPTEMBER 28, 1992

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 5:39 p.m., recessed until Monday, September 28, 1992.