SENATE—*Friday, July 30, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

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

Let us pray:

So God created man in his own image, in the image of God created he him; male and female created he them.—Genesis 1:27. *Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.*—Genesis 2:24.

Eternal God, help us to appreciate the reality of the image of God in humans—not in males, not in females—but in the male/female union, through which, by the power of reproduction, God's creative power is manifest. Help us comprehend the significance of male/female bonding in marriage, and to take seriously this relationship.

Gracious Father, this has been a very busy week, because of which family relationships may have suffered. Whatever else we do this weekend, may we give priority to our families and exercise our God-given responsibility to spouse and children. Where necessary, may this weekend be a time of healing and reconciliation—a time of family strength and love.

We pray in the name of Jesus Who was incarnate Love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 30, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 2403, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2403) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Simon Amendment No. 739, to provide that the Department of the Treasury establish and administer a program requiring the payment of an annual fee for the processing of applications (including renewals) for licenses to engage in the business of dealing in firearms.

AMENDMENT NO. 739

The ACTING PRESIDENT pro tempore. There will now be 2 hours of debate on the Simon amendment.

The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, we have pending before us today the amendment by the Senator from Illinois [Mr. SIMON] that would increase the fees that are charged for Federal firearms licensing.

Mr. President, this is a matter which it is unfortunate we cannot agree on, because over the period of years that I have worked on this bill—and it has been many—we have, indeed, failed to address the costs to the Federal Government to license legitimate gun dealers. The Senator from Illinois today is offering, I think, a reasonable increase.

If you are paying $10 today, which is the license fee for gun dealers, and tomorrow or when this bill becomes effective, if this amendment passes, it increases to $375, you might say that is one hefty increase. But let it be noted, I believe—I am sure the Senator from Idaho can correct me—there has been no fee increase since 1968 when the $10 fee was set.

Mr. CRAIG. Yes, that is right.

Mr. DECONCINI. And inflation alone—I have not calculated it—but I am sure inflation alone would require a substantial increase if it were just pegged on the CPI.

It is unfortunate that we have to struggle for this. The National Rifle Association, which is a group which until recently I have had a very rewarding relationship with, and I still do respect many of their officers and certainly their members, including my friend from Idaho. The NRA has on many occasions indicated that there is room to increase the licensing fee. That is a burden that should be borne by the dealers who sell guns.

As a matter of fact, I believe in the past 12 months representatives of NRA testified that it supports an increase to the actual cost to the Bureau of Alcohol, Tobacco and Firearms, and my best estimate from the ATF is at least $500 per license.

So the Senator from Illinois has taken a very bold step. His first proposal, I believe, was to increase the fee by over $700, and there was an outcry that that was too much, that was more than, in fact, the cost of licensing would be and that raising money from this user fee ought not to be a revenue generator.

Of course, that is a debatable issue. We have many user fees that are revenue generators. The one that I have fought against and lost is one to impose substantial fees on filing of patents where it has gone up to $2,000 where it used to be only a few hundred dollars.

In fact, the funds raised from those fees are not all used to finance the Patent Office but, in fact, go into the general fund of the Treasury. I think this is unfortunate because, first of all, there is a public interest that some public funds be spent to encourage creative ingenuity which results in new inventions.

But having said that, we are faced with the reality of having hundreds of thousands of gun dealers, and we are asking them to pay a slight increase. I say slight—$10 to $375 may not seem slight, but when you look at the cost of instituting and carrying out compliance activities by the Bureau of Alcohol, Tobacco and Firearms, and the proposal by the Senator from Illinois, I think it is slight. It does not even cover the full cost to ATF.

Some will say, as was said last night, that 75,000 small business people will be put out of business if this amendment is adopted. I doubt that, Mr. President, I rather doubt that. I do not know of any study that was conducted to indicate that that is the case.

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

I know many gun dealers, and I have gone to numerous gun shows where they spread their wares out. Sometimes it is business, sometimes it is a hobby, and sometimes it is to simply exchange anecdotes and historical facts about the weapons that are there. A lot of sociability is carried on there and it is a very productive and rewarding experience, even for an observer who goes there and talks to the different people, the customers as well as the gun sellers.

To think that raising this fee to $375—and I do not care if it is $375 or $275 or $210 or what have you—the point here is there is a legitimate, justified reason to increase this fee, and this is as good a time as any. It probably should have been universal on a consumer price index basis, since 1968; it would probably be $1,200 or $1,300 today if that were the case and nobody would be complaining and we would not be here today.

So this is not an attack on the second amendment right to bear or possess arms. Nobody is going to be prohibited from owning a gun under this amendment. If you are a gun dealer and do not have the $375, then you are going to have to save it or borrow it. That is all. You are not going to have to give up your rights under the Constitution to bear and possess arms by the fact that the fee may be increased from $10 to $375.

So I think the proposal by the Senator from Illinois is right on target, to use a phrase, in dealing with the National Rifle Association. I think it is a proper proposal on this bill. It would be better, I might say, if it were offered on an authorization bill. But that is not the way this place works.

Last night, we had a huge debate on authorizing certain Federal buildings and there will be other authorization questions brought up and points of order on appropriations bill as we go through this process.

So it is my hope that the Senate will adopt the amendment of the Senator from Illinois to increase the fee. It is a reasonable fee.

I thank him for bringing it here. I thank him for his usual expert way and the congeniality with which he presents his case.

Senator SIMON is not one who says never. He is not one that says I have to have the whole pie my way; or I have to have the whole loaf of bread; it has to be totally the Simon way or it will not go.

He has literally compromised 50 percent already. He raises a valid issue, one that is justified and infringes on no one's constitutional rights whatsoever.

I truly hope the Senate will adopt the amendment of the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, who controls the time?

The ACTING PRESIDENT pro tempore. Senator SIMON and Senator CRAIG.

Mr. DECONCINI. Let me thank the Senator from Illinois for yielding me the time without even asking.

Mr. SIMON. I thank my colleague from Arizona, who uses such common sense here in this body and in the committee on which I serve with him. I have come to have great respect and admiration for my colleague from Arizona. He is an extremely constructive Member of this body.

I yield myself such time as I may consume.

Mr. President, first of all, yesterday one of my colleagues portrayed this as taking rights away from John Q. Citizen by this kind of an increase.

First, again by way of background, the ATF said to me the cost for doing a proper job will be $375 to $500. I took the more conservative of those two numbers.

Let us take a look at some of the people who now get licenses.

Federal firearms licensee David Taylor, a Bronx man with a long record of misdemeanors and an indictment for murder at age 16, ordered more than 500 guns from Ohio, which he sold to New York City drug dealers.

Here is another.

More than a dozen federally licensed dealers in Detroit have been charged with providing more than 2,000 firearms to criminals in the city.

From February to June 1990, Detroit kitchen table dealer McClinton Thomas ordered hundreds of handguns and sold them off the books, including 90 guns to a big-time dope dealer.

Here is another.

During a 6-month period in 1990, Gustavo Salazar, a federally licensed gun dealer in Los Angeles, purchased more than 1,500 guns which he sold to gang members and other individuals. An ATF check on 1,165 of these handguns showed that only four had been registered under California law.

And you can go on with these illustrations.

My colleague from Idaho may be absolutely correct when he says 99 percent of those who have gun licenses are responsible people.

Let us just assume that is correct. That means 1 percent, 2,300, are abusing their privileges and are out there virtually not getting checked.

No one checks the records because they just do not have the resources to do it. It costs $10 a year to get a license. It cost $15 a year to join the National Rifle Association. We have simply made it too easy and we are not checking up.

That is why the police organizations have endorsed this particular step.

We have a choice of going with the gun dealers who are the gun dealers you see in the local stores. They have endorsed this legislation, because they are tired—as one of them told me on the phone: "I am tired of turning down someone who should not have a gun and then we see the police arrest him and he buys a gun from somebody who sells guns out of the trunk of his car."

It is endorsed by the police association. I think this really makes sense. It does not take one gun away from any citizen in this country. It simply says the ATF ought to have the ability to check up on what is going on.

Right now, they do not have the resources even to do the fundamental thing of checking police records once they are on a computer—and a lot of police records are not on the computer—and to go to a place that wants to get a license and say: Where did you buy these guns? Where do you sell them?

Once out of 20 years you will be inspected now on the average. We are just asking for trouble. And of course, we are getting trouble.

Very interesting, a hearing was held, contrary to what the Senator from Texas said yesterday on the floor, a hearing was held. Senator DAVID PRYOR held the hearing. At the end of the hearing, after hearing the pros and cons, he came on as a cosponsor of the legislation. It is very, very clear that we need this.

My colleague from Idaho said that this is going to encourage the black marketing of guns. One of the charges is: Well, people do not buy from legal dealers now anyway.

Almost all the guns that criminals buy are now purchased legally. That is one of the little facts that is not widely understood.

I think it is time that we recognize that we have a problem. And one of the problems is those who sell guns who are never inspected.

Here is a chance to do something that does not take one gun away from any person who now owns a gun.

I might add, even the National Rifle Association, when they testified at the hearing, said they recognize some changes had to take place. This is a rational thing.

Finally, Mr. President, the figures in red that you see here are the number of licensees. Down in blue, which you can barely see, those are the inspections. You know, we are just asking for trouble.

Here is another illustration. These are the residential sales, kitchen table sales, trunk sales out of your car, people who go to hotel rooms.

These are the retail commercial locations, 18 percent—those stores in Montana, in Colorado, in Illinois, in Idaho, and in Arizona.

And these are some other type of nonretail commercial locations, might be a real estate office or something like that.

Now there are a great many people who sell from their homes, who do it

responsibly. We do not stop that. But we say the taxpayer ought to stop subsidizing this.

I see my friend from Montana on the floor. He is opposed to subsidies in general. Right now, the taxpayers subsidize the licensing of dealers. We ought to put it on a cost-free basis, as far as the Federal Government is concerned.

ATF says doing a proper job will cost $375 to $500 a year. I have taken the lower of these figures.

I think this amendment makes sense, Mr. President. I hope my colleagues will agree it is time that we take reasonable steps on this problem of weapons in our society.

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

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Idaho [Mr. CRAIG] is recognized.

Mr. CRAIG. Mr. President, as this issue and the amendment of my colleague from Illinois is debated this morning, it is a debate resulting from the Gun Control Act of 1968 in which it became the concern of the U.S. Congress and the citizens of this country at that time that there was a need to create a licensure process, not to control guns or to control access to guns, but to establish an effective paper trail by which, if a gun were used illegally, it might be possible to track the source of that gun and to draw conclusions from that. That was the intent. That is why we have that law.

That law has been amended by McClure-Volkmer since that time, but it is very important, I think, we understand that as we debate that this morning. Are we or are we not changing the intent of the 1968 Gun Control Act? I hope that is not the case. It should not be an effort to restrict anything. It clearly should be an effort to be able to detect, to be able to screen, to be able to determine the wise and responsible use of a Federal firearms license.

BATF in testimony this year before Congress said that they inspect approximately 10 percent a year. And less than 1 percent are found to be in violation. And those licenses are revoked. If they inspected 20 or 30 or 40 percent a year, would that less than 1 percent go up? The odds are it would probably not. No, my colleague from Illinois is right and those were my figures I quoted last night, some 2,300 by that percentage.

Is that an anomaly? No. That is called normal action. My guess is more than 1 percent of those who have drivers' licenses violate traffic laws at some time, and if they could be caught, they would probably have their driver's license revoked. But the vast majority of the weapons that are on the streets of America today that are being used in the commission of crimes are not sold by licensed dealers. Those trunk sales, those motel room sales, those back alley sales my colleague from Illinois refers to are not handled—let me repeat—are not handled by Federal firearm licensed individuals. They are handled by black marketeers for one motive only—profit. The reason they are allowed to do it is because they are not caught today. That is human nature. That is called law enforcement. That is not called building up another 300 people inside BATF for the purpose of screening those who make application.

At this time let me yield 10 minutes to my colleague from Montana for the purposes of debate.

The ACTING PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized.

Mr. BURNS. I thank the Chair and I thank my friend from Idaho. I also thank my friend from Illinois who studies these issues very thoroughly and establishes a very good argument and really believes in what he is doing. I have to say at this point he might be a little bit misled.

Let us think about the theory of why a license. Livestock dealers in most States have to have a license to do business. I think in Montana it costs $25 a year. That in no way covers the expense of an audit of a livestock dealer, and they are audited every year. The purpose of the license is the society of that State says we should have access to the activities of an individual or company that has an opportunity to do harm to the society in question. So society says yes, you must have a license so we know who you are and we can take a look at what you are doing, through that license, and is it in concert with what we have in mind in our own communities.

The license was just a pretext—you had to have it to do business. Let us take a bond, a livestock dealer's bond. I think because the Chair is from Colorado, and because of the ranching interests of my good friend from Idaho, they understand, to have a $50,000 bond to deal in cattle when you can buy a million dollars worth in one day—what is a $50,000 bond? It is nothing. It does not protect anybody. But it gives the regulators access to our records. Are we doing the right thing? That was the purpose of licensing.

When society decides that we have to have access to your records, that is for the good of society, and society has decided to expend money so it can do whatever it needs to with that access.

I would say this is, under another guise, a way to tax without calling it a tax. It is a way we say we have innovative and imaginative ways to tax but we have no imagination, no innovative ways to cut our costs.

In the case of the ATF, I would have to hold up the experiment at Waco, TX, and say I am not real sure they need more money, the way they handled that. But from $10 a year to $375 a year, for my people who go to gun shows and handle antique firearms?

We must remember, if I am a dealer and the Senator from Illinois wants to buy an antique firearm from me at one of those shows, the paperwork is the same as if he bought a hunting firearm in a gun store. He has to register the weapon the same way and the cost is the same to both the buyer and the seller.

So when society says you must have a license, that gives the authorities a way to know where you are, who you are, how you conduct your activities. And society also has made the decision that whatever that costs, we will pay for that access. We have to pay for that access.

So I want to be very cautious here unless there is another motive, why we raise this license fee. Because the majority of people—when the Senator held up his chart, it makes my case—the majority of people are people who go to gun shows, and we have quite a few of them in the West. They are not only done as a hobby, but the man who lives and works on a ranch, he has quite a collection, he wants to maybe subsidize his income on a weekend show, but he pays for a place to show his wares. He also foots that financial responsibility.

But let us not get away from the real reasons of licensing. It is for the purpose of access to one's records. I can attest to that. I have been audited every year. The auditors come down, they say, "You are a livestock dealer. You are an auctioneer. Have you been doing business the way we think you should?" It is for the protection of the producer or the consigner in the case of a livestock license. It is so we will not get in such a financial condition we will not only buy their cattle but we will run off with the cattle and the money.

So we have to have access to you on an audit. That is all that $25 license does. It buys access for the protection of the rest of society. And society has made the determination that, yes, that is worth it to us for our own protection. Unless we have changed the purpose, why are we going from a $10 fee to a $375 fee? And we should call that exactly what it is. It is an area in which we tax—another innovative way we do it.

So I urge my colleagues to take a real look at this and why we are opposed to this fee. I think the NRA, and the gun dealers, the ones I have talked to last night on the telephone after I went home—yes, they say, there should be some reform. Yes, they would pay a higher fee. But from $10 a year to $375 is a pretty fair jump. Maybe we ought to have a hearing on this. I think we can gain some more funds for ATF, and the Treasury, to administer this. They are willing to do that. But not a draconian measure, a jump like we have here, and give America the wrong impression of what we are trying to do.

Mr. SIMON. Will my colleague yield?

Mr. BURNS. I will.

Mr. SIMON. I have heard some great speeches from my colleague from Montana on the problems of welfare. ATF says that it costs $375 to $500 to do an adequate inspection. Unless we change the costs of doing an inspection, we end up with welfare for gun dealers. That is what we have right now.

Is my colleague from Montana supporting welfare for gun dealers?

Mr. BURNS. I will advise my good friend from Illinois that, no, I am not, but that was a decision made from society that we should license these folks for the protection of the society. Society made that decision. The gun dealers did not make that decision; society made it for them.

Mr. SIMON. But if my colleague will yield again, do you not think we ought to cover the cost of doing this; that the taxpayers should not have to foot the bill for the inspections for gun dealers? That is all we are trying to do.

Mr. BURNS. Then I advise the Senator from Illinois, the taxpayer made the decision to license and to audit. He has to expect it does not come for nothing. That is what I am saying. The taxpayer made that decision, and he has to expect that there are certain costs incurred in doing those audits and those inspections because it is for the good of all society, not for maybe some other reasons. That is what I am saying.

I am saying here society has decided or the taxpayer has decided that they want this done. So there are costs to the taxpayers, and that is what I am saying, on the majority of issues that come before this body.

If we would be truthful and go to the taxpayers and say, "We can provide you this program, but it is going to cost you *X* amount of dollars. Now, do you still want the program?" We have not done that very much. We have not been up front with our taxpayers very much.

I know we reregulated the cable industry last year. They said, "Isn't that wonderful? We are going to get lower cable rates." "We are going to regulate you because we are going to get better service and lower rates," and neither one is going to be true, but we appropriated $11 million of taxpayers' money to rewrite the rules of regulation and now all the taxpayers of America are going to pay that increased rate in cable rates.

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

Mr. BURNS. That is where we go on this. I thank the Senator from Illinois for his very good questions. We will have a cup of coffee and talk some more about this on what taxpayers demand, what society demands, and what taxpayers have to pay for it.

I thank my friend from Idaho. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield 10 minutes to the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for 10 minutes.

Mrs. BOXER. Mr. President, I thank the Senator from Illinois for yielding me time, and I thank him for his very excellent work on this commonsense amendment which I am very pleased to cosponsor.

As we know, this amendment will raise the annual licensing fee for firearms dealers to $375. The funds raised from that fee would give the ATF the tools it needs to finance more thorough examinations of firearms dealers.

I say to my friend from Montana, if you ask the taxpayers if they think it is important to have these inspections, I believe they would say yes, and I further believe they would say that that procedure should not be subsidized by the taxpayers but paid for by the people who are making a profit from selling guns. That is all this Senator is suggesting: that this is a pay-as-you-go amendment.

The current fee of $10 a year is a joke. It was set in 1968. I think this fee is due to be raised.

Senator SIMON has not pulled the number of $375 out of the hat. He has asked the ATF what it costs them for these inspections, and the number he has put forward makes a good deal of sense.

By way of comparison, Mr. President, it is more expensive to get two tickets to a movie than it is to get a Federal license to sell a gun, and the junior Senator from Illinois said yesterday it costs more money to get a license to be a hairdresser than it does to get a license to sell a gun. I know sometimes it does get a little dangerous in the hair salon, but basically you come out of it just fine.

There are 287,000 firearms dealers in America, an increase of 113,000 since 1980—an increase of 113,000 firearms dealers since 1980. This means that there is one firearms dealer for every 1,000 Americans, and that means there are more gun dealers in America than there are gas stations.

Obviously, it is very difficult for the ATF to inspect 287,000 gun dealers. Yet, can we do what the Senator from Montana suggests? Can we simply say, Well, let us just walk away, close our eyes, and hope everybody is good and honest?

Unfortunately, Mr. President, that would be closing our eyes to the truth. We know that this kind of a fee would reduce the number of arms dealers maybe to 70,000. It would be a giant step toward safety because it would be easier to audit and inspect a smaller number of gun dealers.

I think we need to look at the number of guns we have in America today: 200 million guns; in California, 559,000 guns. And we have to look at what the ATF has been able to do when they get to work and do their job.

A federally licensed dealer in Orange County, CA, supplied guns to the Fourth Reich Skinheads who were plotting to kill Rodney King and blow up the First African Methodist Episcopal Church in Los Angeles. That was a federally licensed gun dealer, Mr. President, who sold those weapons to the skinheads. It was not some back-alley dealer.

During a 6-month period in 1990, a federally licensed gun dealer in Los Angeles purchased more than 1,500 guns which he sold to gang members and other individuals. An ATF check on 1,016 of these handguns showed that only 4 had been registered properly.

So, Mr. President, that was not a back-alley, underground dealer. It was a federally licensed dealer who, in a period of 6 months, purchased more than 1,500 guns which he sold to gang members.

Then there is a 22-year-old gun dealer, a convicted drug dealer and felon who sold guns, including at least 10 high-powered semiautomatic pistols to teenage gang members in Boston.

Then there are more than a dozen federally licensed dealers in Detroit who have been charged with providing more than 2,000 firearms to criminals in that city. There is a federally licensed dealer in Baltimore who sold more than 300 handguns, fewer than half of which were properly recorded and at least 14 of which has turned up at Baltimore crime scenes. That federally licensed dealer took out classified ads in the Baltimore Sun advertising to semiautomatic dealers. Not a back-alley, underground, unlicensed dealer, but a federally licensed dealer that the ATF was able to crack down on.

A firearms dealer in Texas falsified his records to conceal the diversion of over 2,000 firearms to Mexican nationals, people who were major firearms traffickers.

A firearms dealer in North Carolina provided between 6,000 and 10,000 handguns to the black market after altering the serial numbers of the handguns.

So, Mr. President, we are talking about federally licensed gun dealers who are doing these things. Are all of them doing these things? Of course not. But some are, and the result is violence and death in America.

The ATF is telling us, "We can do our job, but we cannot do it when we have 287,000 dealers and we cannot do it if we do not have enough funds."

So the Senator from Illinois is looking at a problem. He is seeing it squarely, as he always does, and he is putting forward a solution that makes a lot of sense.

Mr. President, the current system encourages people to file applications because it is so cheap to do so even if they have no intention of actually

going into the firearms business. Many of these persons use the license to acquire guns at wholesale prices for their personal use, or to circumvent local or State restrictions regarding waiting periods or frequency of purchase. So, these dealers—for $10—are able to circumvent the law in a way that makes it virtually impossible for the ATF to do its job.

If we believe in the laws of the United States of America, and we have to give law enforcement the tools they need. Otherwise, we will have a situation similar to our illegal immigration problem in that we do not enforce our laws. So if we are going to decide that we want to keep laws on the books, then we need to enforce those laws.

Mr. President, this amendment will not stop Johnny from getting a shotgun. Now, I listened to this debate last night, and the Senator from Texas, [Mr. GRAMM], talked a lot about Johnny being able to have a shotgun. There is nothing in this amendment that will stop Johnny from having that shotgun, or from being taught to use it properly by his dad or his mom or his aunt or his uncle or his grandma or his grandpa. We all agree, I know, on all sides of this issue, that if and when Johnny gets a shotgun, he should be taught to respect it and use it properly.

This amendment is not about Johnny getting a shotgun, but it is about some other people named John. It is about John Hinckley, who was able to go and purchase a gun easily and shoot a President and put James Brady into a wheelchair.

In October 1980 John Hinckley was arrested for carrying three guns aboard an airplane in Nashville, TN, yet 2 days later he walked into a pawnshop in Dallas and bought a revolver. So it is about that John. It is about Gian Ferri at 101 California Street, who burst into a law office and killed another John, John Scully, a friend of my family, and a host of other people. And there is a connection between this fine amendment and what happened at 101 California. It is not about Johnny carrying a shotgun. It is about John Hinckley and Gian Ferri and others.

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

Mrs. BOXER. I ask for 30 seconds, if I might, from the Senator.

Mr. SIMON. I yield an additional minute to the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Like John Hinckley, Gian Ferri used a fake address to buy a weapon of his choice, a Tech DC–9. So we are talking about licensed gun dealers, a legitimate business that we feel we need to police.

I will say to my friends on the other side of this issue, sometimes I really wonder why they oppose these commonsense approaches to this problem. I wish to say from the bottom of my heart, with friendship and with a collegial attitude to them, there have to be some times that we can get together and join hands here, and I say this is one of those times.

I yield back my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CRAIG addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from California has just made a very important and, I am sure, sincere, emotional appeal that this particular amendment will take guns out of the hands of people who are perpetrating crime across America by raising a licensure fee, the streets of America will become safer, that the Johnnys in the board rooms will not be shot. How possibly can that be? How possibly can a $375 fee begin to change the human mind, begin to change human nature, begin——

Mrs. BOXER. Will the Senator yield? He asked a question.

Mr. CRAIG. To change the very emotional thing that produces a killer. You could take all of the guns off the streets of America, and you would find that humans would still be attempting to kill humans. They would not be using guns because they would not be available. They might be using sticks. More important, they would probably be using stones.

One percent of those who hold Federal firearm licenses are determined to be misusing those licenses. Now, that is one percent or about 2,300, and yet there are thousands and thousands of black-market dealers that are putting guns into the hands of criminals for the purpose of using them in the commission of a crime.

In the State of the Senator from California, they have some of the toughest gun laws. They have a major waiting period in which background checks are supposed to be accomplished, and yet in that State there are crimes committed by guns, those guns in the hands of criminals who, believe it or not, went through those background checks, slipped through the State laws.

I guess what I am suggesting to the Senator from California is it is not a perfect world and this amendment will not make it more perfect. I do not blame her for her concern about the crimes of America that are being committed with the use of a gun. I wish to see thorough inspections. We must do adequate background checks. That is an important part of what we are doing here. That was why we created the Gun Control Act in 1968, and that is why we have reviewed it on occasion and made adjustments in it.

I am concerned when it is proposed that to the some 300-plus inspectors we now have at BATF we want to add another 300 and send a squad of 600 men and women out across America to begin what I hope is a legitimate process.

Now, after 1968, it was not a legitimate process. We found that BATF was bursting, uninvited or without inspection warrants, into the homes of private citizens who had gun collections and confiscating guns.

We went through all of that in America. We went through some direct violations of constitutional rights because we had incorporated an army of BATF inspectors, and as a result of that we had to change the laws because Americans said, no, there is a right and a responsibility here, but there is not a responsibility to take away a right. That is the kind of thing that was happening.

In the streets of Los Angeles, law-abiding citizens fled to the gun stores to get guns to protect themselves when local law enforcement agencies broke down in their ability to maintain civil justice. And right now in America, tragically enough, not because guns are available but because criminals will not be restricted, more guns are being sold to young women than ever in our history. Why? So that they can learn to use them legitimately to protect themselves. It is a tragic day in a nation of laws in which young women have to go out and secure a firearm for the purpose of self-protection because those laws no longer work. That is really what the debate ought to be about today, criminal justice reform, in a way that truly does deal with those who violate the laws of this country.

I would suggest that the enemies of our culture are refusing to recognize that there are such things as individual responsibilities. They prefer to shift the blame, and the blame is always shifted to some inanimate object instead of to the mind of man. To suggest that it is the mind of man who on occasion becomes evil, it is that evil that perpetrates crime. Guns do not jump up off the street and shoot people without people being attached to them. You may say that I use an old argument. It is a darned valid old argument.

I agree with my colleague from Illinois that a 10 percent inspection rate of those who hold a Federal firearms license is inadequate on an annualized basis. It ought to be 25 or 30 or 40. Should it be 100 percent annually? Should it be 100 percent or the vast majority who buy or sell 10 guns on an annual basis and it is a hobby of theirs?

It is not by accident that the largest amount of licensed people live in the States of Arizona, Florida, and Texas. They are collectors. They are not criminals. In fact, in the States where you have some of the highest crime rates, you have some of the lowest number of licensed dealers.

You cannot correlate crime and licensed dealers. It does not work. Statistics will not allow it. What I am suggesting to the Senator from Illinois is that he and I ought to work together to produce a refined process that gets to the heart of this issue, that gets to a responsible and valid protection, does not send a new army of people across America.

We tried that in the late sixties and it got us into trouble constitutionally. It got our citizens upset, as they should have been.

Responsible inspection ought to be done. I would agree that 10 percent is inadequate, even though less than 1 percent of those that are inspected are found to be in violation. Let us make sure that if it is 2,300 out of 240,000 that we are able to find them on a regular basis and get the licenses out of their hands and try to stop that kind of illegal trafficking.

I am not arguing that it will not help. What I am arguing is that a $375 increase produces some annualized inspection for everyone that is probably not very realistic; that if we had handled this properly in committee, we would have those figures, we would know what we are talking about and we could come before the U.S. Senate with a reasonable approach that might pass, that would make a lot of sense toward strengthening BATF.

Let me also say, why did this administration cut back on their budget? Why did this administration, which talks about crime control, which says they want some form of gun control, cut back on the very agency that has the responsibility for inspection? I do not know the answer to that. They ought not have done that.

I retain the remainder of my time.

Mr. SIMON. Mr. President, I yield 2 minutes to the Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for 2 minutes.

Mrs. BOXER. Mr. President, I thank the Senator for yielding me time to address some of the questions that were raised by my friend and colleague from Idaho.

He asked how this amendment is going to help get guns out of the hands of violent criminals?

I think the answer is clear. I think that question has been answered over and over again. I would point out that in my previous presentation I identified 10 cases from all over the country in which ATF was able to do its work and get to the bottom of some illegal gunrunning operations; and if they have the resources, they can do more of this.

I think the people in America will be much more confident of their safety if the ATF can do its job.

The Senator from Idaho raised the issue of violence. I can tell you as the author of the Violence Against Women Act in the House, revived here in the Senate now—I am a proud cosponsor, believe me—I do not need to be lectured about violence, because women in America today, unfortunately, are the victims most often. I have to say to the Senator, with all due respect, that if some violent person is coming after me late at night with a stone, I might have just a little bit of a better chance than if that violent criminal could only get a stone and not a gun.

I do not want to take guns away from decent, law-abiding citizens. But I sure do want to take them away from the bad folks. The Senator says, well, it is just the way people are, that boys will be boys. Let me tell you the statistics, Mr. President: In 1990, handguns killed 22 people in Great Britain; 13 in Sweden; 91 in Switzerland; 87 in Japan; 10 in Australia; 68 in Canada; and 10,567 in America, the greatest country in the world.

I would say that the people here are not more violent than the people in other countries. I would say that those countries have laws that are better enforced.

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

Mr. SIMON. Mr. President, if I may respond to my friend from Idaho and my friend from Montana. First of all, this does not cover collectors. The law is very clear in this. The law says that this covers a person who devotes time, attention and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. But such terms shall not include a person who makes occasional sales, exchanges, or purchases of firearms for an enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.

So the collector is not covered.

My colleague from Idaho says we have to deal with crime. There is no question about it. And there are all kinds of reasons for violence. I am going to be speaking at a meeting Monday in Los Angeles where, for the first time the television and film industry will be gathered together to talk about violence on television. That is one piece of the mosaic. But one piece of the mosaic is also people who sell guns, who do not get inspected. It is not 10 percent, if I may correct my colleague from Idaho on this. It is not 10 percent who are inspected. We have 284,000 people who have licenses as of 1992. In 1992, 16,000 were inspected. So 6 percent were inspected.

He mentions the State of Texas particularly. It is very interesting. The State of Texas is a gun-running State; it sells to Central America, it sells to California. The distinguished Senator from California just spoke. A lot of the guns that show up with criminals in the State of California are purchased in Texas. Twenty-eight percent of the guns that are taken in criminal procedures in New York come from licensed gun dealers in the State of Virginia.

We have a major problem here. We have to recognize that.

The other point I would make, because we do not have adequate inspections, what happens right now—let us just say that someone from Colorado decides that he or she wants to become a gun dealer, and has a criminal record. It is very easy to get around it. You simply use a different name, or you send in the wrong Social Security number. And even if in your State all police departments are on computers—and in most States they are not all on computers yet, but even if in Colorado they are all on computers—if you use the wrong Social Security number or the wrong name, you are going to get that license. The media, incidentally, got the license to sell guns for two dogs; easiest thing in the world. You just fill out those forms and you send it in.

Clearly we have to do better.

For the reference to gun shows, 3 percent of those who are dealers participate in gun shows and most of them, frankly, can afford a $375-a-year license.

I find in the State of Illinois that a liquor license will vary from community to community. But generally, my recollection is, it runs between $500 and $2,000 a year for a liquor license.

We are talking about something that is much more lethal than liquor. We are talking about selling something where you can murder people. We are, as the Senator from California said, we are murdering people at an astounding rate. I mentioned last night, the city of Chicago, 927 deaths by firearms last year. Toronto, Canada, same population, 17. The city of Chicago, more firearms deaths by 4½ times, more firearms deaths than the entire country of Canada.

Does Canada have a lot of guns? Yes, they do. But they are more careful. They have a 28-day waiting period for getting a gun. They are more careful who sells guns and who can carry guns. I think we have to move in that direction.

I certainly hope we can work something out. If this amendment should be defeated—and I hope it will not be, because I think it is a reasonable amendment—my colleague from Idaho says we ought to make a change. I am willing to work with him or others for change.

Clearly, we have to do a better job. Everyone who gets a gun license, a license to sell guns, ought to be inspected, as my colleague from Illinois said last night so eloquently. That is all we are asking. The people who sell the guns should pay for it. Right now, we have a welfare program for gun

dealers. It costs $375 to do an adequate inspection. We are inspecting only 6 percent of those who get those licenses, and we do not even pay for that 6 percent right now.

So what we are asking for is just common sense.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Who yields time?

Mr. CRAIG. Madam President, when we look at the impact of this kind of fee increase in the application and issuance of the Federal firearm license, it is largely projected by the ATF that the greatest number who will go out will be the small gun dealer; and by volume, if we wish to talk about volume, the small gun dealer appears, by all estimation, to be the more law-abiding. Certainly, the kinds that we are concerned about. The Chair spoke on the floor last evening about her concern on this issue. My colleague from California has spoken to this issue.

Those who are moving the guns into the streets of America that end up in criminal activity are doing so in high volumes, making big money, all from those who they sell them to. And a very minor part, a very small portion of them, clearly less than 1 percent, pack a Federal license.

It is so amazing to me that in dealing with the criminal element we like to put up these artificial barriers, assuming that a criminal will respond. Create a law, and a criminal will abide. Somehow we fail to understand the criminal mind or the definition of what is a criminal, who is a criminal, who becomes a criminal. That is someone who does not abide by the law, plain and simple.

So all of the gun dealers who want to stay in business, who want to be responsible, as they are today, by 99 percent, they will still be there, and they will pay whatever fee it is, except a good many will leave simply because it is such a minor part of their overall lifestyle that they will quit trading or whatever.

In other words, what we will have used is a tax to put people out of business because, you see, we are changing human activity at that point. Somebody is going to have what they believed was their right to go to a gun show on the weekend and buy and sell a few guns taken away, in essence, by the increase in fees. The crime in the streets of Chicago is not going to change until you take the criminal off the street—not the gun, but the criminal, because the criminal is still going to get that gun, unless we decide to ban all guns in this country, and I do not think we are ready to do that. I do not think society wants the second amendment to our Constitution wiped away.

My colleague from California said America is not a violent nation, or at least no more violent than any other nation in the world. Therefore, the crime rates in foreign countries are different because there are no guns, or access to guns is very limited. She fails to recognize that study after study does in fact suggest that the basic culture, the social and economic differences change different attitudes.

If you look at Switzerland where there are as many guns as there are people, there is a very low crime rate. Tough laws? You bet there are tough laws. But there is also a fundamentally different social attitude in that country. They go after their criminals, not their gunowners. Let me tell you, if you commit a crime in Switzerland and use a gun in the commission of that crime, you are put away. You are not pampered or plea bargained back to the street. You are put away.

Mr. SIMON. If my colleague will yield, I do not happen to know what the laws are in Switzerland for gun dealers, but I am willing to gamble—you mention Switzerland—I am willing to say let us find out what the laws are in Switzerland and adopt those here in the United States on gun dealers. Is my colleague from Idaho willing to take a look at that?

Mr. CRAIG. I would certainly be willing—reclaiming my time—to take a look at it. I think my colleague from Illinois knows I am sincere when I say let us resolve this problem, because we have a problem; nobody disputes that.

What I do not want to do, and what will be done by this amendment, is put an awful lot of fine law-abiding citizens out of business. We want the criminal. Those 2,500 deaths caused by handguns, quoted by my colleague from California, we would like to stop that. There is no question about it. So we change the law and we put the law-abiding citizen out of business, and the criminal has the gun and the statistics will not change because in Switzerland the crime laws are different. In the whole of Europe, the crime laws are different, and that is a reflective attitude of culture.

Mr. SIMON. If my colleague will yield, I frankly do not know what the law is on selling guns in Switzerland. But just to the north of us in Canada, where they also have a very high percentage of guns relative to the population, there you have to fill out a very different form than we fill out with much more detail. It includes fingerprints; it includes a photograph; it includes the kind of material that makes it easier to verify; you have to pay a higher fee, and you have to do the kinds of things that we ought to at least approach doing here in the United States.

I thank my colleague for yielding.

Mr. CRAIG. The point that my colleague makes of the environment in Canada is absolutely true. The point that is missed is that all Canadians can own guns. Yet, crime rates are different up there. Why? Well, there is a substantial difference in law enforcement, and there is a substantial difference in socioeconomic attitudes. There is a heck of a lot of difference between the inner city of Chicago and the inner city of Montreal, as it relates to drug dealing and trafficking and a criminal justice system that puts people back on the street.

In this city in which this debate is going on, four and five and six times a person is put back on the street after violation of the law. They are put right back on the streets and, ultimately, they commit a major crime; they take a life. That is a fact. This amendment will not change that fact.

Mr. SIMON. If my colleague will yield, Canada, for example, has a 28-day waiting period in order to buy a gun.

Mr. CRAIG. I understand that.

Mr. SIMON. I am sure my colleague from Idaho would support such legislation here.

Mr. CRAIG. As my colleague from Illinois knows, I would not support that. But my colleague from Illinois would have to admit that every Canadian citizen who, as I understand, is not a convicted felon, can own a gun if they choose, even if they go through the tightrope. My point is that the crime rates are different. There are as many guns as a law-abiding Canadian wants to own. Criminals in Canada have guns, but Canada treats criminals differently.

Mr. SIMON. If my colleague will yield, you may be surprised to learn that the crime rate in Canada is not that much different than the crime rate here in the United States. What is different is the lethality of crime, that the crimes in the United States are much more likely to involve murder, much more likely to involve very serious violence. And I think it is because Canada does a much better job of screening who owns a gun and does a much better job of who sells guns.

If we adopt my amendment today, it does not go nearly as far as Canada, but it moves a little in the right direction. I applaud my colleague from Idaho for using Canada as an example.

Mr. CRAIG. Madam President, then let us talk more about Canada because, you see, after Canada passed a gun law in 1977, a tough gun law, the murder rate did not go down, it edged up. And that is a fact. Robbery, burglary—all crime rates went up in Canada.

What I do suggest is that, as a per capita basis, overall crime is down in Canada. There is a difference in the cultures. There is a heck of lot of difference between the inner cities of Canada and inner cities of the major cities of this country.

We treat criminals differently. Of course, we all know that it is the criminal element that has caused the

greater problem and perpetuates those and brings other individuals into that problem. Anytime criminal justice in this country returns a criminal to the street or a violator of law to the street—time and time again, until they kill, robbery after robbery, drug dealing after drug dealing, we plea bargain them back to the street until they kill, then 10 years or less in prison, and they are back on the street—something is wrong. Take the guns away and the world will be a safer place. Not true. Not true.

We are talking about an attitude. Crime is behavior and is controlled by moral and individual values.

I agree with my colleague from Illinois. We have talked about violent crime on television perpetuating an attitude in the minds of Americans, and we are going to do something about it. He has taken a leadership role in that area. In other words, we are finally beginning to recognize that it is the mind and not the tool that the mind chooses to use that causes the problems we are here debating today. We will throw up all of these barriers or attempt to, and we will not change until we recognize that a nation that is buried in laws that it will not enforce will create a criminal element that will threaten our very culture and our very societal attitudes that we hold dear. That is the bottom line.

We know in the development of this Nation that until we gained control of the streets, until we gained control of our society, we had organizations that were anti in nature. Why? Because humans demand justice. They demand safety. They want security. And they are going to try to get it. That is what we established a criminal justice system for.

For some reason, we cannot get a good many of our colleagues here in the U.S. Senate and the House to believe that it is the law that deals with the criminal that makes the difference here, not the law that deals with the gun or the knife or the bow and arrow, for that matter. But we want to go home and say to our citizens who are frightened in their homes and frightened on their streets, look what we did for you. We passed a law that says we are going to charge $375 more to a federally licensed firearm dealer, and the streets of Chicago are going to be safer.

If you go home and say that, you are not telling the truth because it will not happen. If you go home and say that there are mandatory sentences and those criminals will be taken off the streets and the word sweeps across Chicago that if you use a gun in the commission of a crime, you are going to be put away for a long time, maybe that begins to make a difference because maybe that begins to change the criminal mind.

Let us deal with reality. Let us not deal with myth and let us not deal with illusion because I believe the amendment today has a problem in the sense that it argues something that it cannot accomplish.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. SIMON. Madam President, if no one is seeking time, I will question the presence of a quorum and ask the time to be equally divided.

Mr. GRAMM. I want to speak.

Mr. SIMON. I withdraw my request.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. I note the presence of the Senator from Texas who is over here, I know, to support my amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I yield to the Senator from Texas 10 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Madam President, I had an opportunity last night to debate this subject at some length. I am hopeful that when we vote on this issue later this morning we will dispose of it. As I told my colleagues last night, if we do not dispose of this amendment at that time, I will respond to the concerns of our Democratic colleagues by offering an amendment that requires 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging that firearm with intent to do bodily harm, mandatory life imprisonment for killing someone, and the death penalty in aggravated cases.

I believe that that is the way to get at gun violence and gun crimes—put the people who are abusing gun ownership in prison where they belong, and let them have a long and hopefully fruitful stay where they learn to respect the rights of law abiding citizens.

Mr. DOLE. Madam President, I rise in opposition to the Simon amendment in large part because I am not certain what it seeks to accomplish. Much has been said about use of firearms in crime, some have suggested the cost does not equal the cost of processing Federal firearms licenses, we've even heard this will remove all Uzis from the streets.

My colleague, the senior Senator from Texas, described the situation accurately—most active so-called FFL's are small business men and women who engage in the business of trading firearms to supplement their income. FFL's stem from the 1968 Gun Control Act which, for the first time, prohibited the interstate sale of firearms by our citizens.

As an example, if someone from Riverton, KS, wanted to purchase a shotgun from a virtual neighbor in Joplin, MO, that Kansan would need a Federal firearm license. We created the need for FFL's, we have not changed the underlying need, so we must, in the first case, admit that there is a need for some of our citizens to possess FFL's.

I certainly agree that the price of the licenses should be increased. What concerns me is the over 3,000-percent increase being suggested in this amendment. The Bureau of Alcohol, Tobacco and Firearms has indicated the actual cost of processing is around $100 per license—I am not sure why that isn't a more appropriate number. The sponsor of the amendment suggests the extra $275 would be used to supplement the ATF budget—in part to offset the reduction in the budget sought by the Clinton administration. If this is true, we certainly have another new tax on the middle class to pay for the money that was transferred out of Federal law enforcement to pay for some new program—something we were supposed to be against.

Let me now address the matter of the number of licenses, the theory that criminals are those who hold FFL's. The Senator from Illinois indicated that in 1992, 187 FFL's were prosecuted. Well, that amounts to six-tenths of 1 percent of all FFL's—a percentage that is probably below the number of Members of Congress who were alleged to have violated some law that year. So maybe we ought to pay some large fee to pay for the ATF to investigate us.

Finally, let me say that we aren't going to remove Uzis or assault rifles or any other type of firearm from the streets by raising the fee. Guns sold in the streets of this country are usually not transactions involving FFL's. I am aware of no instance where someone who wished to profit from arming criminals first applied for a Federal firearm license so as not to violate one provision of the 1968 Gun Control Act while violating another. That just makes no sense.

I will state to the sponsor of this amendment, I believe reform of the FFL program is overdue and I pledge my cooperation in assisting that effort. However, I suggest this falls short, it simply establishes a huge new tax on law abiding, low- and middle-income Americans in the name of results that will not be accomplished.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I yield 5 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Madam President, I rise as an original cosponsor of the amendment of the distinguished Senator from Illinois.

I think that this is a proposal that is long overdue. This country has experienced an explosion of guns in the last

decade. Experts estimate that there are altogether about 200 million guns in this country—200 million guns—68 million handguns in this country. This has implications for many, many aspects of our society.

Obviously, it has implications for crime control, for violence in the streets. It has implications for the capacity of our health support systems, since hospitals are burdened by more and more injuries as a result of guns.

The rise in the number of guns has been caused in part, I believe, by the cost of the gun dealers' licenses, which are abysmally low.

Last December, in the Washington Post, a staff writer named Pierre Thomas penned a series of articles called Under the Gun, which detailed how easy it is to secure a gun dealer license in this country.

Remember, this is guns, the right to sell guns. The story that was vividly told by the series goes something like this: If you want to sell guns, you fill out an application, you pay about $30, and in about 45 days you get a 3-year license from the Federal Government to sell guns. Considering the tremendous damage that irresponsible gun use causes every year in terms of lives lost or altered or destroyed, that is a very sad story; $30, set up your shingle, sell guns.

Out of 34,000 applications for new gun dealer licenses filed in 1991—out of 34,000, only 37 were denied. These are supposed to be screened so we make sure that people who are disreputable or unbalanced do not sell guns in America—out of 34,000 applications, only 37 were denied. Only a fraction of the 34,000 were screened. Instead of suggesting that gun dealers have disproportionately more virtuous backgrounds than most Americans, these figures suggest that our current system of tracking applicants for dealers' licenses is woefully inadequate.

One gun dealer, who was quoted in the Thomas series, called the current system, in his words, "a joke." He goes on to say: "The politicians are screaming about gun control, but the Government is handing out licenses to every Tom, Dick, and Harry that comes along."

Is that any way for us to act, handing out gun licenses to every Tom, Dick, and Harry that comes along? The total number of federally licensed gun dealers is about 280,000 in this country—280,000 individuals who put shingles outside their stores saying, "We sell guns." It has been an explosion in the last decades. Since 1980 the number of gun dealers have increased 60 percent—in one decade. Is it any wonder that kids going to high schools are carrying guns, that people are loading up on guns so much so that in one State a Governor is hailed as a major gun control advocate because he limits the purchase to one gun per person per month? It is because gun dealers in this country have proliferated the landscape—up 60 percent since 1980, 280,000 gun dealers.

One of the reasons for this explosion is the bargain basement price of a gun dealer's license. A gun dealer's license costs this year about $10, up to $30—$10 to $30, a fee that basically has not changed in 25 years.

Madam President, I ask unanimous consent for 3 more minutes.

Mr. SIMON. Madam President, I yield 3 additional minutes to the Senator from New Jersey.

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

Mr. BRADLEY. It has not changed in 25 years. If you wanted to sell guns in America 25 years ago, you paid the same thing as you pay today. The actual cost of processing the license application is much higher than the license itself. The point has been made dramatically by the distinguished Senator from Illinois. This means the American taxpayers subsidize gun dealers at an alarming rate. This amendment would reduce that subsidy and help curb the explosion of gun dealers so Federal authorities would be better able to monitor them, so we are better able to be sure we do not have unbalanced individuals out there selling Uzis to people in America.

Unlike other crime and gun issues, this is not an issue that can be dealt with solely at the State level. I notice a lot of the opponents of this measure come from States with relatively permissive gun laws. I, on the other hand, represent a State with some of the toughest gun control laws in the country. We have had registration for guns since 1967. Yet in my State where there is substantial support for restricting guns, local officials can do very little about the growing number of gun dealers because of the role played in the process by the Federal Government. This is why I believe we have to take this step at this Federal level to discourage the growth of the gun industry.

Madam President, a lot more will have to be done, I believe, before gun sales decline in this country. We have to educate people about the high rate of accidental deaths caused by guns. We have to make it more difficult to purchase guns. We have to, frankly, acknowledge that fear covers the streets like a sheet of ice, and we have to work toward removing that fear from society. In short, we have to begin to look at the proliferation of guns and gun violence in America for what it is, an epidemic. And we have to begin to think of it in epidemiological terms. But that is another story.

This amendment, it should be noted—and I do—is a step in the right direction because it seeks to bring the cost of obtaining a gun license more in line with the real cost of the license to our society. I urge my colleagues to support this important beginning in terms of getting control of gun dealers in this country and the proliferation of guns and violence that frightens millions of Americans to a degree unthought of just a few years ago.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. Madam President, the 1968 Gun Control Act that put in law and into process the licensure issue that is before us today in the amendment, within its definition is replete with words about, "not restricting"—"not foreclosing"—"the purpose of this act is not to deny."

The purpose of the 1968 Gun Control Act was to be able to establish, if you will, a paper trail. It was not to stop law-abiding citizens from getting or gaining a license to deal in, buy or sell firearms in this country. We have a lot of law-abiding citizens today who deal very slightly in firearms, but they do not want to be in violation of the law. They do not want it to ever be questioned that they are. So they acquire a license and they deal in, buy or sell, collect and hold, 8 or 10 guns a year. It is their hobby. It is part of Americana, right or wrong. And that is the vast majority.

Yet, we heard our colleague who just spoke talk about control. If he wants to change the intent of law—you can control through excessive taxation. We have known that throughout history. You can cause a shift in economics, you can change a way business is done, the way human behavior operates by excessive taxation.

But my guess is you will not control access, nor will you control the criminal mind in his or her desire to own and use a gun in the commission of a crime. The $375 talked about at this moment is in the backdrop of it costing $56 to issue a license. Let me repeat that. The cost of issuance is $56. The investigation around the issuance is $44.

The field investigation, where the BATF investigators go out to the field and check the records of the dealers, is about $235 annualized, and the travel is around $40, average. That is where my colleague from Illinois gets the $375 figure.

That is to assume that we would inspect every license on an annual basis. We do not inspect every food license of every restaurant in every city on an annual basis. I suggest that a reasonable check would be at least during the tenure of the license. We are not doing that now. We have all agreed to that, and we have all agreed that is probably not right to do.

But what we have not agreed to is this form of excessive taxation, to suggest that through licensure we are going to fund other activities, other responsibilities of BATF besides this, because the amendment says, well, we

will take out $19,700,000, and not more than that, and the rest will be deposited into the Treasury as miscellaneous receipts.

It sounds to me like because this President decided to cut the budget of BATF, the Senator is proposing we are going to raise the general budget of BATF through this mechanism.

So what are we doing here? Are we, in fact, creating an environment by which we can license in a responsible fashion, inspect in a responsible fashion? Do we really want to hire 300 additional people at BATF? Those are the issues at hand. That is what this Senate ought to examine in absence of the kind of hearings that bring about the type of legislation that we can probably both agree on that would result in reasonable and responsible inspection on some regular basis to assure safety, to assure that that less than 1 percent element are not misusing their licensure or hiding behind their license for the purpose of illegal trafficking in the sales of guns.

Those are the bottom-line issues that this Senate has to consider when they look at this amendment. My guess is it is a broader way to fund BATF and its broad activities at Treasury. Yet, we only said in the 1968 law that we wanted to create a paper trail; we would not inhibit, nor would we prohibit, because that would be a violation of the Constitution. But we did want to be able to check about illegal activities and to substantiate the responsibility and the responsiveness of the dealer.

That is what ought to be at issue here, but I suggest it is not. I retain the remainder of my time.

Mr. SIMON. Madam President, I yield 7 minutes to the senior Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I have been privileged to be on the floor while this discussion has been taking place and listening to my distinguished colleague from the opposition and also to Senator SIMON. I think that the issue has gotten really confused. I would like to return it to the basic point of what Senator SIMON and his cosponsors, yourself included, Madam President, are trying to do with this legislation.

Essentially, what we have today is an ATF gun-registration program which registers about 290,000 registrants a year, about 286,000. The whole program costs around $29 million, including fixed administrative costs. The license fees presently only bring in $2.9 million. Consequently, the taxpayers subsidize the gun registration and compliance program for the remainder, the remainder of which is about $26 million of subsidy.

What the ATF is saying, what Senator SIMON is saying, what we, Madam President, are trying to say is, replace the taxpayer subsidy with a fee that is related to the cost of compliance and enforcement of the law. That fee, according to ATF, is $375 a year, which is the cost of complying with the program.

Presently, even with a taxpayer subsidy, ATF cannot go out into the field, cannot inspect a permittee to see if that permittee is what that permittee says he or she is.

Let me read into the RECORD, if I may, two recent editorials from newspapers: One from the west coast and one from the east coast.

Being a Westerner, let me point out an editorial which ran on the 27th of this month—3 days ago—in the Los Angeles Times. It is entitled: "Need a Gun Dealer's License? No Problem." Then it begins by citing a case that I mentioned last night on the floor of the Senate, the case of Josh Daniel Lee. And I quote:

> For Josh Daniel Lee, obtaining a Federal permit to deal guns was easier than getting a license to drive. In 1991, at age 21, with no criminal record and $30 to spend, Lee simply filled out a form, sent in the fee and waited—no more than 45 days—to secure a Federal firearms license from the Bureau of Alcohol, Tobacco and Firearms. That's when the trouble began.
>
> Two weeks ago, Lee was arrested and charged, by the same Government that issued him that license, with supplying illegal weapons out of his home to members of the Fourth Reich Skinheads, the hate group that allegedly planned to inflame racial tensions in Los Angeles by attacking African-Americans and Jews.
>
> The arrest, part of a heads-up operation by Federal and local law enforcement * * * that broke up the purported plot, is commendable. But the ease with which Lee was able to get a dealer's license—allowing him to ship and receive large quantities of firearms and ammunition at wholesale prices—again raises disturbing questions about the regulation of America's quarter-million federally licensed firearms dealers.

This is the main part, Madam President; this is the main part:

> The ATF estimates that only 20 percent of those now licensed operate a traditional store front business.

Only 20 percent.

> The rest, so-called kitchen-table dealers, sell firearms out of homes, hotel rooms or private offices, too often in violation of Federal, State and local laws.

The point was raised last night, and I admit that part of the American dream is the right to protect oneself, that there are arms swaps where people in country areas will go to a meeting and purchase arms; and that people earn part-time income from selling these arms. I say then, let them register. I say then, let them pay the $375. I say then, let a Federal arms compliance officer visit them once a year to determine that they are legitimate people, that they are hardworking people and that they are selling their arms to the sane, not to the deranged, not to the criminal, not to those who would terrorize, attack and maim. That is the point in this.

Let me tell you, Madam President, we heard about the countryside—the countryside of Texas, the countryside of Idaho. Let us talk for a moment about Los Angeles, and let me give you a chilling factor, again, from these articles.

> * * * of the 1,100 gun dealers in the City of Los Angeles in 1992, only 130 complied with local ordinance requiring them to be registered and fingerprinted and to pay $300 for a permit from the Police Commission. In fact, local law enforcement authorities have no idea who is dealing guns in their jurisdictions. And that is because prospective licensees are not required by Federal law to prove that they are in compliance with State and local business licensing statutes.

This is a direct quote from an editorial of the Los Angeles Times.

It goes on to say:

> The problem is exacerbated by Federal laws that in effect require the ATF to issue many more licenses than it can possibly keep track of.

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

Mr. SIMON. I yield 2 additional minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator very much.

There are only 1 dozen Federal compliance inspectors to monitor 4,000 gun dealers in Los Angeles, Ventura, and Santa Barbara Counties.

Listen to that. There are only a dozen compliance inspectors to monitor 4,000 gun dealers in three huge counties in America. What this would allow us to do is bring compliance to the point where it means something, where there is at least an annual visit by a Federal ATF inspector to a gun dealer to see what that gun dealer is doing.

We took an oath of office to uphold the laws of our country, to protect our people. We now have a simple measure that can enable us to do that, and we will not vote for it. I cannot believe it. I cannot believe it.

Who would vote against saying that people who want to deal in guns should fill out an application that pays the cost to see they are doing what they say they are doing, selling these guns legitimately, not in hotel rooms to skinheads, not in back lots to people who would terrorize, not in motel rooms to a potential assassin, but to legitimate people who want to use that weapon for legitimate sporting purposes, as a collector or for self-protection.

That is all this legislation talks about. To me, it is basic, sane legislation that is aimed at protecting the welfare of our citizens, to see that this Government does what it says it is going to do, provide for the general welfare, promote the common defense, ensure the domestic tranquility. That is all this legislation does. I cannot understand how anybody going to a gun

swap meet would feel that the person selling those guns should not be reputable, should not be honest, and should not pay a fee for just the amount that it takes to see that he or she is just that.

That is what this legislation does.

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

Mrs. FEINSTEIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois.

Who yields time?

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has 5 minutes remaining; the Senator from Idaho has 8 minutes remaining.

Mr. SIMON. I yield to the Senator from California for a unanimous-consent request.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

I ask unanimous consent a Los Angeles Times editorial dated July 27, 1993, and a Washington Post editorial dated December 2, 1992, be printed in the RECORD.

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

[From the Los Angeles Times, July 27, 1993]

NEED A GUN DEALER'S LICENSE? NO PROBLEM

For Josh Daniel Lee, obtaining a federal permit to deal guns was easier than getting a license to drive. In 1991, at age 21, with no criminal record and $30 to spend, Lee simply filled out a form, sent in the fee and waited—no more than 45 days—to secure a federal firearms license from the Bureau of Alcohol, Tobacco and Firearms. That's when the trouble began.

Two weeks ago, Lee was arrested and charged, by the same government that issued him that license, with supplying illegal weapons out of his home to members of the Fourth Reich Skinheads, the hate group that allegedly planned to inflame racial tensions in Los Angeles by attacking African-Americans and Jews.

The arrest, part of a heads-up operation by federal and local law enforcement authorities that broke up the purported plot, is commendable. But the ease with which Lee was able to get a dealer's license—allowing him to ship and receive large quantities of firearms and ammunition at wholesale prices—again raises disturbing questions about the regulation of America's quarter-million federally licensed firearms dealers.

KITCHEN TABLE: The ATF estimates that only 20% of those now licensed operate a traditional storefront business. The rest, so-called "kitchen-table dealers," sell firearms out of homes, hotel rooms or private offices, too often in violation of federal, state and local laws.

As Times staff writer David Freed reported in a five-part series on guns last year, of the 1,100 gun dealers in the city of Los Angeles in 1992, only 130 complied with a local ordinance requiring them to be registered and fingerprinted and to pay $300 for a permit from the Police Commission. In fact, local law enforcement authorities often have no idea who is dealing guns in their jurisdictions. That's because prospective licensees are not required by federal law to prove that they are in compliance with state and local business and licensing statutes.

The problem is exacerbated by federal laws that, in effect, require the ATF to issue many more licenses than it can possibly keep track of. There are only about a dozen federal compliance inspectors to monitor 4,000 gun dealers in L.A., Ventura and Santa Barbara counties.

By contrast, dealers luxuriate under the Firearms Owners Protection Act. Passed by Congress in 1986, it limits the ATF to only one unannounced inspection per dealer each year and prohibits the agency from centralizing dealer records or establishing any system of firearms registration. This act is an outrage and must be changed.

MURDER RATE: Such legal loopholes, combined with lax enforcement, may not be much of a problem in rural areas, but for cities like Los Angeles the consequences and costs are enormous. The steady flow of guns contributes to a climate of escalating fear and violence. Last year, more than 8,000 people were treated for gunshot wounds in county hospitals and 1,919 were murdered with firearms. Against those horrific numbers, the government should move to run illegitimate dealers out of business as fast as it can.

Toward that end, Sen. Paul Simon (D-Ill.) has introduced a bill to raise the licensing fee to $750. Besides helping pay for the growing cost of regulating dealers, that higher financial threshold would undoubtedly weed out some of the undesirables.

Congress should also approve measures by Sen. Daniel Patrick Moynihan (D-N.Y.) to require that applicants prove they are in compliance with state and local laws and zoning, business licensing and dealer requirements. In addition, Congress should drop the requirement that the government issue licenses after only 45 days even if its review process is not complete. Without these simple changes, people like Lee will continue to provide guns to society's most undesirable elements.

[From the Washington Post, Dec. 2, 1992]

LICENSE TO KILL

In an eye-opening series this week titled "Under the Gun," staff writer Pierre Thomas reported that getting a federal license to sell firearms is a snap. Fill out a short form, pay $30, and in about 45 days you've got a license. No fuss and probably no bother—most records aren't audited for decades. No wonder business is jumping—with more than 270 licenses a day issued in 1991. Of 34,000 applications for new licenses last year, only 37 were denied. There were 57,327 licenses renewed and only 15 renewal applications denied. The total number of license-holders, most of them considered law-abiding, is ridiculously high—276,000, up 59 percent since 1980, while the number of federal inspectors assigned primarily to gun dealers is down 13 percent. And oh, yes: Guns have killed 60,000 people in this country in five years.

So what's the matter with the U.S. Bureau of Alcohol, Tobacco and Firearms, the agency that dishes out all these licenses and then can't begin to monitor them? This agency is only as effective as the law allows it to be, and in this case the law is just the way—weak—the NRA likes. The gun lobby prefers an agency with minimum computerized capacity to check records or use a central database. In 1986, when members of Congress were even more cowed by the gun lobby than they are today, the NRA and its semiautomatic water-carrier in the Senate at the time—Republican James A. McClure of Idaho, now retired—succeeded in weakening what law was on the books. His legislation reduced certain recordkeeping violations by dealers from felonies to misdemeanors and forbade ATF to inspect any gun dealer more than once a year.

ATF needs its teeth back. The agency is good at what it is allowed to do, including the tracking of guns, even though it may have to sift through slips of paper because it hasn't been able to computerize its records quickly enough. Good legislation has been proposed before and should be enacted now. It's obvious that tougher federal controls are needed, along with a force that can inspect all license-holders regularly. One other proposal that could take effect quickly would require any applicant for a federal license to supply certification of compliance with all state and local ordinances. This, with an accelerated automation and inspection plan, could begin to make a difference right away. So could some tighter rules on applications for renewals.

The gun manufacturers for whom the NRA fronts will insist that the killers will always get firearms without paying attention to tougher controls. Why not test their argument? As it stands, the federal system is a disgrace.

Mrs. FEINSTEIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, my colleague from California has made a very compelling argument as it relates this morning to the amendment, but it is compelling if we do not worry about facts.

For example, let me remind my colleague from California that it is not an American dream to own a gun. It is a constitutional right. So somebody does not just dream about owning a gun in this country. They have the right to own a gun.

Now, it is not a dream or a right to own a Federal firearms license. It is something you apply for under the law, and it is something granted if you qualify. Of course, the director of BATF, when they finally decided to increase their effort at looking at applicants and doing what the 1968 law requires them to do, found out that a variety of individuals abandoned or withdrew their applications when they did what they were supposed to do under the law. That was a quote made on June 17.

We know that that will happen if they do what they are supposed to do. But we have an administration which has even cut back on their funding, and I am not sure why that is the case. In that same statement, of course, we know the director said that most licensees, a vast majority of licensees, do not contribute to crime in our country.

I am not quite sure why—and I am always very frustrated by it—there are those who will not allow this Congress to produce good criminal law that will deal with the criminal, but we want to deal with some inanimate object and

go home and say the streets of San Francisco are safer. Not on your life. The streets of San Francisco and Los Angeles will not be safer until we deal with the criminal element and not the guns.

When the streets of Los Angeles erupted, citizens of Los Angeles went out and bought guns for their protection because local and State law enforcement agencies failed. That is the bottom line. There were more guns sold in Los Angeles during that period of time than had been sold in any other period of time in its history—by law-abiding citizens who finally realized that local law enforcement agencies could no longer keep them safe, not just against guns but against criminal elements charging through the fronts of their houses, and ransacking them, and setting them afire along with their businesses. Now, that is a breakdown in law. That is a breakdown in State government doing what it ought to be doing.

I suggest to all of you that $375 does not a safer Los Angeles make. But we know what will make it safer—changing the laws and dealing with the problems of that inner-city area in a responsible and comprehensive fashion, not taking law-abiding citizens' rights away from them, or not destroying the small businessperson, or not sending across the land a fleet of Federal agents to run roughshod over the rights of American citizens.

That is the issue that is at hand in this amendment. Let us sit down and work it out. Let us do it in a responsible fashion. Let us make BATF do what by law they are charged and responsible for doing. This amendment cannot, and will not, accomplish that.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Illinois.

Mr. SIMON. Mr. President, first let me just say that person earlier described by the Senator from Idaho, a person who owns 8 or 10 guns and occasionally sells a gun or buys a gun, is not covered by the Federal licensing requirement. The law is very clear on that.

Second, who supports this? Well, among others, the National Alliance of Stocking Gun Dealers. Now, who are they? They are the people who actually have gun stores. They favor this legislation.

I ask unanimous consent to insert into the RECORD the letter from B.R. Bridgewater, the executive director of that association.

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

NATIONAL ALLIANCE OF
STOCKING GUN DEALERS
Havelock, NC, July 13, 1993.

Senator PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: A careful reading of the Gun Control Act of 1968, which governs the issuance of Federal Firearms Dealers Licenses (FFL), leaves absolutely no doubt that the intention of the statute is to regulate the "business" of selling firearms.

The Form 7 application for a license contains 15 references to the need for "businesses" to be licensed. In contradiction to the Form, ATF's previous liberal interpretation of the licensing provisions of the GCA has led to the issuance of 286,000 licenses to engage in the "business" of selling firearms. By ATF's own admission, an estimated 80% of all firearms licensees are not bona fide or legitimate businesses.

Those who obtain a dealers license are under no Federal obligation to comply with state or local laws. Many simply choose to ignore them. Do not delude yourself that those who fail to comply with state and local law are not dealing in firearms, they are! They simply operate illegally.

Many federally licensed dealers ignore local licensing or sales tax requirements in order to hide their activities. Only recently has ATF used its limited resources to keep the illegal dealers (i.e. those who do not comply with state and local laws) from getting a federal license. This marks a reversal of a 10–15 year trend.

While we applaud ATF's efforts, more oversight is needed and stronger legislation is needed in order to have any real impact on compliance by dealers. We will discuss this issue in more detail a little later.

A 1984 amendment to the GCA permitting dealers to conduct sales at gunshows within their home state has spurred the ever-increasing desire for firearms dealers licenses, and it has led to the establishment of a well oiled and very efficient national firearms black market.

Because of limited ATF resources and the overwhelming number of gunshows held in this country each year, sales at gunshows go virtually unchecked by any level of regulatory or law enforcement oversight.

These gun shows are frequented by all segments of society—firearms and outdoor sports enthusiasts as well as felons, gang members, and multi-state gun runners. The ease with which a firearm can be purchased at a gunshow is well known within the criminal community.

Profit is also a strong motivator for those who choose to participate in the underground firearms trade occurring on the streets of our cities every day. Small, semi-automatic pistols purchased by black marketeers for $50 sell "off paper", on the streets, for $250–$400 while the bona fide, compliant dealer sells the same pistol for $60.

The time has come to stem the illegal flow of firearms in this country through legislative initiatives that give ATF the tools necessary to put an end to both the illegal access to firearms and firearms licenses. Toward this end, we respectfully request your consideration of the following:

1. Require all applicants for a Federal Firearms License to submit two photos, one side and one front, and a full fingerprint card taken and certified by the local police department of sheriff's office.

2. Require a photo of the intended business location both inside and outside, accompanied by a statement from the cognizant zoning inspector that a firearms business may be operated at that location.

3. Require copies of all state and local permits and licenses to be submitted with the Form 7 application.

4. Upon receipt of the application, conduct a thorough background check (preferably by the FBI) to determine whether the applicant is a felon, or a clean citizen.

5. Charge a license fee sufficient to defray the cost of processing the application, doing a comprehensive background check, and accomplishing the other administrative tasks. I believe that this can be accomplished properly for a fee in the range of $350–$500.

6. Do a compliance audit six to eight months after the licensee opens for business to ensure that the new licensee starts out properly.

7. If notified by a responsible state or local agency that the licensee is not in compliance with state or local law, give the licensee notice that he has 30 days to comply with local law or lose his license. If he fails to comply, revoke his license.

8. Note that there is no Federal Firearms License for "personal use". Nor is there a "hobbyist license", so prohibit the issuance of a business license for these purposes.

Sincerely,

B.R. BRIDGEWATER,
Executive Director.

Mr. SIMON. They make it very clear. It says:

While we applaud ATF's efforts, more oversight is needed and stronger legislation is needed in order to have any real impact on compliance by dealers. We will discuss this issue in more detail a little later.

Mr. CRAIG. Will the Senator yield?

Mr. SIMON. Just for 20 seconds because I am running out of time.

Mr. CRAIG. I will share this on my own time then, because what is very important here is the definition in engaging in business. The Senator is right, those who engage in the business of selling firearms must have a license, but because of the 1983 circuit court decision by Judge Scalia as it related to the definition of "conducting business," the Court rejected the argument that means a commercial enterprise and said it is far less than that. And what happened after that was the collector who deals in 8 or 10 firearms a year, fearful that he might be defined as violating the law by this action, went out and got a license. So I am correct in my argument, and we have an awful lot of people who seek a license who may not need it, simply because they do not want to risk being in violation of the law.

Mr. SIMON. It may be that some collectors do that if they are selling a lot. But the law is very clear. This does not apply to collectors.

So the people who actually have gun stores favor this. Who else favors it? The police organizations. We have a choice of siding with the police organizations, our law enforcement people who risk their lives for us, or these people who are selling guns over the kitchen table or out of the trunks of their cars.

And we are not trying to stop them in this amendment. What we are saying is we do not need welfare for gun dealers. They ought to pay the cost. That is all this amendment does.

We need inspections. We are now inspecting 6 percent of those who hold these licenses to sell guns.

And if you want right now to get a license to sell guns, it is the easiest thing in the world. You can just send in the wrong Social Security number, you can send your dog's name in, you can send the wrong name in. It is absolutely ridiculous.

This amendment does not take a gun away from a single person who owns a gun today. What this amendment does, it says let us have inspection of those who sell guns, who traffic in weapons, sometimes trafficking with people illegally.

Senator FEINSTEIN mentioned that famous phrase "ensure domestic tranquillity." We are not doing a good job of ensuring domestic tranquillity.

This is not, overnight, going to do anything in Los Angeles, Chicago, but it is a small step in the right direction, and we have to take some small steps in the right direction. I hope my colleagues will support the amendment.

Mr. CRAIG. Mr. President, I ask my colleagues to oppose this amendment and take a giant step for taking criminals off the street, and to stop the killing that is going on in the streets of America today, by major reform in criminal law.

Senators ought not be going home and saying, look, we just passed a $375 licensing fee and the world is going to be a lot better, because we know that will not be the case. Less than 1 percent of all of those who currently hold a license are found to be in misuse of that license. Without question, the vast majority of the illegal weapons on the streets of America today are dealt out of the back trunks of cars and are dealt by illegal dealers, not by licensed Federal firearm dealers.

Sure, there can always be one or two examples, but we all know the facts. If we are going to adhere to the law of the land and to the constitutional right, then we are not going to put these kinds of restrictions in place. We are going to have a system that works, though.

My colleague from Illinois and I agree that the current system is not working very well because it cannot handle the volume. And the responsible committee deserves to have the hearings, should have the hearings, should craft a law that is reasonable, should not run small business people out of business, should not create a task that is confiscatory, that takes away rights and opportunity.

I am very fearful based on the facts we have heard today that that is the intent, and, of course, that is the reality of what will happen. If 80 to 90 people walk away from their license then something is wrong out there because we know that less than 1 percent are illegal in their activities. That is the fundamental issue at hand. Let us deal with it in a fair and responsible way that solves that problem, and let me also suggest that we do not finance the whole of BATF operations on the backs of legitimate firearms dealers.

That appears, by this amendment, to be exactly what is going to happen. They need approximately $100. They do not need $375. I would think that a 30 to 40 percent inspection annually, maybe as high as 50 percent—that means every other year the books are looked at—becomes a responsible approach. But that is not what is being dealt with here. They are suggesting 300 more Federal employees, out looking at everyone's books on an annualized basis. That will not a safer world make, but it certainly begins to threaten the rights and the constitutional privileges of the individual.

I retain the remainder of my time.

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

The Senator from Illinois has 1 minute and 5 seconds.

Mr. SIMON. I yield 1 minute and 5 seconds to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank my friend.

Mr. President, we ought to adopt this amendment. It is reasonable. The cost here—I beg to differ with my friend from Idaho—is more than $100. We know that. It is at least $375. In 1992, the Bureau of Alcohol, Tobacco, and Firearms licensing center accepted 2,900 applications each month. Between January and April 1993, the numbers jumped to 6,000 per month. These increases are simply a direct result of such an easy way to get it, and it costs nothing—nothing.

There are now more gun dealers in this country than there are gas stations. As a gas station owner, and having dealt with that business over the years, they have to pay greater licenses than it does for a gun dealer.

This is a reasonable approach. It is not an infringement. It is not going to cure our crime problem. And the argument is, well, let us get tough on crime and increase penalties. We had a crime bill here, time and time again, and we could not get the votes to impose cloture to get over it. I do not know where the Senator from Idaho was on it. But that is where we ought to be fighting crime. We ought to raise these fees. It is reasonable. It goes to support the legitimate concern of ATF.

Mr. KOHL. Mr. President, I rise in strong support of Senator SIMON's amendment. Simply put, we need to increase gun dealer fees to allow for a more comprehensive system of background checks and dealer inspections. In turn, these more stringent controls will ensure a heightened level of responsibility in the sale and use of firearms.

It is unconscionable that today it is easier to obtain a license to sell firearms than a license to drive a car. For a driver's license, you have to take a test, have your picture taken, and have the ID issued. In contrast, to obtain a Federal license to sell firearms, it takes much less: merely a two-page form, a $10 fee, and a cursory background check by the understaffed Bureau of Alcohol, Tobacco and Firearms [BATF]. In 1990, of the 34,336 Americans who applied for a license, only 75 had their applications denied.

Many of these gun dealers use their licenses to buy guns for themselves or sell guns out of their homes. Dealers can order guns wholesale through the mail in unlimited quantities and are often exempt from retail sales laws such as waiting periods and background checks. While the vast majority of firearm dealers are law-abiding citizens, the transgressions of a few have led to deathly results for far too many. In fact, all you need to do is open up your newspaper and you can read for yourself: The stories of criminals purchasing guns hours before committing murders are littered throughout their pages. The Director of the BATF told the House Judiciary Committee that, "* * * virtually all guns ending up in the hands of criminals flow through licensed dealers." So we must ensure that laws concerning sale of firearms are being enforced, and we must have enough staff members to force compliance with the law.

And do not just take my word that licensing fees need to be raised: ask the NRA. In a hearing before the Governmental Affairs Committee this March, the NRA acknowledged that increased fees make sense. We only disagree on the amount.

Mr. President, the proliferation of firearm dealers is accompanied by a disturbing phenomenon of juvenile ownership of guns. In a landmark report released last week by the Joyce Foundation, students were surveyed about their experiences, perceptions, and apprehensions about guns. The report revealed an astounding portrait of the prevalence of gun culture: 59 percent of the respondents say they could get a handgun, "if I wanted one," 15 percent say they have carried a handgun on their person in the past 30 days, and one in 25 say they have taken a handgun to school this past year. Additionally, the cover stories in both Newsweek and Time this week are both about kids and guns.

Mr. President, we must act now to preserve the safety of our children and curb the rapid increase in violence that is afflicting our society. We need to provide a series of new legislative measures to fight against violence, and this amendment is an important first step. My Youth Handgun Safety Act also moves toward curbing juvenile access to guns. So does the Brady bill. For the sake of our children, I hope that they will all become law by the time this Congress adjourns.

Mr. CHAFEE. Mr. President, it seems to me that the amendment put forth by the Senator from Illinois simply makes common sense.

It seems clear that all should agree that $10 is a ridiculously, ludicrously low fee for a Federal firearms license. there are very, very few—if any—other licenses that cost so low. And when one considers that we are talking about a license for dealing in guns—by any definition, deadly weapons—the low fee seems not only ridiculous, but downright foolhardy.

The amendment proposed would raise that fee from $10 to $375. I do not consider that $375 is an exorbitant amount, especially considering that a dealer with any profit margin at all could cover that fee without much difficulty.

And quite frankly, when you consider that we are talking about a lethal product—guns, weapons that are wreaking havoc on our society—I find the sum of $375 actually quite outrageously small for a virtually unlimited right to buy as many guns as you like and distribute them freely.

This amendment does not merit a lengthy discussion of the so-called second amendment right to bear arms—which is an utter canard, by the way. It has nothing to do with whether citizens can go trap or skeet shooting. It has to do with commonsense rules about how easily one should be able to purchase the ability to buy unlimited quantities of guns.

All this amendment is, is a small step toward sanity. It will not stop all handgun violence—but it will help slow down and close off yet another of our unbelievably easy routes of access to deadly guns.

Now, as my colleagues know, I believe we should close off access to handguns entirely, simply turn off the spigot that pours more than 2 million handguns into circulation each year by banning handguns altogether. In my view, that is the real way—the only way—to tackle the problem of handgun violence. I would like to see the Senate debate my public Health and Safety Act of 1993; a bill to ban the sale, manufacture, and possession of handguns. I would welcome that.

But that is not what this debate today is about. What the Senator from Illinois is asking for, in fact, hardly merits debate. It should be approved unanimously. What is the fuss about?

In sum, I believe the Senator from Illinois has an amendment that makes eminent sense. I congratulate him on this proposal and am pleased to be a cosponsor of his amendment.

Mr. BYRD. Mr. President, I rise in support of the amendment offered by the Senator from Illinois that would increase the fee required by the Bureau of Alcohol, Tobacco and Firearms [ATF] for a Federal Firearm License [FFL] from $10 to $375.

The number of firearm dealers in this country has increased from 174,000 in 1980 to 287,000 today, an increase of over 60 percent. ATF reports that there is one firearm dealer for every 1,000 Americans, and one dealer for approximately every 290 firearm owners. According to the Violence Policy Center, that means that there are more gun dealers in our country than there are gas stations.

In West Virginia the numbers are rising as well. In October of 1992, there were 3,490 dealers; in March 1993, there were 3,661; and currently there are approximately 3,800. That is an almost 10-percent increase in only 9 months. To put these number in perspective, 3,800 dealers means that, on average, there are 69 dealers in each of West Virginia's 55 counties.

ATF has testified that initial applications are increasing so rapidly that they simply cannot keep up. The current license fee is only $10—the same as was established in 1968 and never increased—and that the cost of the current inspection and investigation process is over $100. That means that the American taxpayer is currently subsidizing each gun dealer by $90. And the current investigation process is clearly inadequate. Apparently, fewer than 10 percent of dealer applicants undergo an actual inspection in the form of a personal interview or an on-site visit. With the rest, ATF must rely on computer searches to inspect applicants' records, using a computer system the database of which does not contain critically needed information from many States, such as arrests and dispositions records. I am advised that, once licensed, a typical dealer is audited by Federal inspectors only once every 20 years.

ATF has indicated that increasing the fee to $375 would ultimately enable them to improve their initial application screening process to include personal interviews or onsite visits in most cases, and would also provide for more followup inspections.

ATF also believes that the proposed fee increase and improved investigative process will discourage individuals from obtaining a dealer's license for illegal purposes.

ATF Director Steven Higgins testified before a congressional committee on June 17, 1993, that:

> Whether criminals buy guns directly or through straw purchases or from traffickers who buy the guns for resale, virtually all guns ending up in the hands of criminals flow through licensed dealers.

Mr. Higgins testified further that 73 percent of licensed dealers buy or sell less than 10 guns a year. These are dealers who sell guns at their kitchen table, from the trunk of their car, and in hotel rooms. Mr. Higgins said:

> Although most licensees do not contribute to our crime problem, the sheer volume of dealers is obstructive in determining the focus of our compliance program.

Not a day goes by that we are not reminded of the rampant increase in crime in our country, especially crimes committed with firearms and related to drugs. Unfortunately, there is every indication, as recent news articles have reported, that this scourge is now spreading to areas of West Virginia.

It certainly seems reasonable to me to provide the ATF with resources it needs to improve its firearms licensing and renewal process to help weed out those dealers who may engage in illegal activities.

It also seems reasonable to me that, in times of budget constraint, the costs of this licensing process should not be borne by the American taxpayers, but rather by those who benefit by receiving their Federal firearms licenses, the dealers themselves.

This measure will not prevent any American or West Virginian from exercising his or her constitutional right to purchase a firearm. This measure will not prevent an aspiring businessman from acquiring a license or put an existing, legitimate gun dealer out of business. What is will do is to help make sure that those who are federally licensed to sell guns should be.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain why I will reluctantly be opposing the amendment by my friend and colleague from Illinois, Senator SIMON.

This amendment would raise the user fee for applying for a Federal firearm license from the current level of $10 per year to $375 per year. The Bureau of Alcohol, Tobacco and Firearms has estimated it would cost between $375 to $500 per application to conduct the kind of thorough background checks it should on potential gun dealers. BATF currently spends about $100 processing a license, and only about 10 percent of applicants are inspected.

Let me say that I agree with several of the goals of this amendment. We should look into raising the license fee so the users will be paying for the cost of processing their licenses. I also believe we should conduct thorough background checks on potential gun sellers.

If we enact the Brady bill compromise, we should be only a few short years away from a computerized instant check system that will provide background checks in a matter of seconds. I assume that this technology will be available to BATF to check potential sellers, just as it will be used to check whether potential buyers are dangerous individuals.

But the thing that concerns me most about this amendment is BATF's own estimate that about 80 percent of current license holders will be driven out of business by the fee increase. When we are considering legislation that will have such a dramatic impact on that business, I don't believe the appropriations process is the best climate for thoughtful consideration of reform.

I hope that the Senate will continue to consider this issue, but I cannot support this amendment at this time on this appropriations bill.

Mr. BURNS. Mr. President, I rise in opposition to the amendment offered by Senator SIMON. This amendment would place an unrealistic increase in the fee for licensing guns. While there may be merit in reviewing the possibility of increasing the fees, this increase is not realistic—$10 to $350 is a hefty increase which is actually an attempt to impose restrictions on guns. This amendment would directly affect the residents of my home State of Montana, and is an attack on our constitutional rights.

This just doesn't make sense. It negatively affects people who sell guns. Have gunowners committed a crime? I don't think so. Instead of imposing tough laws on criminals, the proponents of this amendment are venting their frustrations on lawful sellers.

My overall concern of gun-control-type measures is the erosion of our constitutional rights. Far too often we have to fight for these rights—like the right to bear arms and the right of private property.

When looking at the whole gun control issue, I feel compelled to first step back, survey the bigger picture of civil liberties, and take a good, hard look at the Constitution—the Bill of Rights, article II:

"* * * the right of the people to keep and bear Arms, shall not be infringed."

There are no ifs, ands nor buts about it. It is my opinion that the Government can no more infringe on the right to keep and bear arms than it can tamper with the right of establishment of religion or the freedom of speech.

The forefathers gathered and instituted the Bill of Rights for a very good reason—to protect the rights of the individual citizen from an overbearing Government. The Bill of Rights has served our spirit of self-reliance and individual responsibility for over 200 years. I am afraid that an encroachment such as this amendment only leads to further erosion of those rights that define our freedoms, the very freedoms that make us Americans.

Mr. President, I yield the floor.

Mr. CRAIG. Mr. President, I raise a point of order that this is legislating on an appropriations bill. I ask the Chair to rule.

The PRESIDING OFFICER. The Chair under Senate——

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, it is clearly germane, and I raise the question of germaneness.

The PRESIDING OFFICER. The Chair, under Senate rule XVI, now submits to the Senate the question raised by the Senator from Illinois [Mr. SIMON], namely, Is the amendment germane or relevant to any legislative language already in a House-passed bill?

Mr. CRAIG. 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 before the Senate is, Is the amendment of the Senator from Illinois [Mr. SIMON] germane to any legislative language already in the House-passed bill?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN] is absent due to a death in the family.

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

The yeas and nays resulted—yeas 30, nays 68, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—30

Akaka	Feinstein	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Graham	Mitchell
Boxer	Harkin	Moseley-Braun
Bradley	Hollings	Moynihan
Byrd	Inouye	Murray
Chafee	Kennedy	Pell
Danforth	Kerry	Rockefeller
DeConcini	Kohl	Sarbanes
Dodd	Lautenberg	Simon

NAYS—68

Baucus	Feingold	McCain
Bennett	Ford	McConnell
Bond	Gorton	Murkowski
Boren	Gramm	Nickles
Breaux	Grassley	Nunn
Brown	Gregg	Packwood
Bryan	Hatch	Pressler
Bumpers	Hatfield	Reid
Burns	Heflin	Riegle
Campbell	Helms	Robb
Coats	Hutchison	Roth
Cochran	Jeffords	Sasser
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
D'Amato	Kerrey	Specter
Daschle	Leahy	Stevens
Dole	Levin	Thurmond
Domenici	Lieberman	Wallop
Dorgan	Lott	Warner
Durenberger	Lugar	Wellstone
Exon	Mack	Wofford
Faircloth	Mathews	

NOT VOTING—2

Cohen	Pryor

The PRESIDING OFFICER. On this vote, the yeas are 30, the nays are 68. The judgment of the Senate is that the amendment is not germane. Therefore, the amendment falls as not germane.

Mr. CRAIG. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 31, LINE 14

The PRESIDING OFFICER. The pending question is the committee amendment on page 31, line 14.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, the Senator from Arizona would like to know what the order for business is. Is the committee amendment the pending amendment?

The PRESIDING OFFICER. The pending amendment is the committee amendment on page 31, line 14.

Mr. DECONCINI. Mr. President, I am advised that the Senator from New Jersey [Mr. LAUTENBERG] is prepared to enter into a time agreement perhaps with the Senator from Kentucky and offer an amendment.

I know it is the wish of the majority leader that we might proceed on this bill, and I wonder if the Senator from Kentucky has a comment regarding that.

We would like to move ahead on this bill. We have several outstanding amendments that we need to get to, and that is one of them.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I answer my colleague this way, that I am perfectly willing to enter into a time agreement with the distinguished Senator from New Jersey. We have talked, and I think we have an agreement. He is here. If I could have 15 or 20 minutes before we start, that is probably not what he wants to do.

Mr. DECONCINI. That is all right.

Mr. FORD. When this amendment comes, I am more than happy to enter into an hour equally divided and have a voice vote at the end of that without having a rollcall vote.

Mr. LAUTENBERG. I say to the manager, that would be my understanding as well, and at a time of convenience to the manager. My preference is about a half an hour from now. I have another committee meeting.

Mr. DECONCINI. Mr. President, I have not fully consulted here. If the Senator would stay here, maybe we could get an agreement to take this up by 12 o'clock.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may be allowed to proceed for 5 minutes as if in morning business.

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

ADMINISTRATION IMMIGRATION PROPOSALS

Mr. SIMPSON. Mr. President, on Tuesday morning, our President—and

he is our President, regardless of party—announced legislative proposals on expedited exclusion of illegal aliens and increased penalties for criminal alien smuggling.

I have carefully reviewed those proposals, and I believe they constitute a very good start. Many of the provisions are similar, even identical, to those in two bills I introduced earlier in the Congress to address alien smuggling and asylum abuse.

Many provisions are similar to the work product of Senator FEINSTEIN, who has taken a serious and vivid interest in this, which is very pleasing to me because I intend to work closely with her on these issues.

There are, perhaps, some partisan aspects to immigration reform, refugee matters, asylum. But, by and large, all of us know that the first duty of a sovereign nation is to control its borders. To do that we have to do certain things. I think many of us are ready to do that in a way which does not smack of nativism, or racism, or xenophobia, or all the stuff that is usually out there when you try to do something realistic. But I support very much making entry with fraudulent documents, or no documents—make it a grounds for exclusion with an expedited hearing and then exclusion of those who cannot establish a "credible fear"—those are the words, "credible fear of persecution in the home country."

I support increased penalties for alien smugglers. I support using our racketeering—our RICO laws—to prosecute organized smuggling gangs. I support those provisions in the administration's proposals but I see some problems with other aspects of the President's bill. They are not unsolvable problems. But a primary purpose of asylum reform is to eliminate some of the many layers of appeal presently available to an alien claiming asylum. This overemphasis on process—it is almost an obsession with process—has created a backlog of hundreds of thousands of these cases. These cases can drag on for many years. Sometimes these people—often—get more due process than does an American citizen under similar, or different, circumstances.

The President's proposal—this is the disturbing one to me —would create a new corps of superasylum review officers, outside of the Immigration Service. I think the Attorney General would like to see—I would—bringing that group back within the Department of Justice. But they would review all cases where the alien is found not to have a credible fear of persecution, if he or she were to return "home." Remember, none of them really wants to go home because if you are really an asylee, the minute you reach the country of freedom you are "home"—in quotation marks. At least you are away from the country that is persecuting you. But no, they come to the second country, third country, fourth country—then here. We must stop that.

I support a supervisory review of a screened out case. If it is said of a person, "You do not have a credible fear of persecution," I think there should be indeed a supervisory review. But I am troubled by the administration proposal to create a new group which might be outside the Immigration Service to review every single denied case. I think that is getting right back into the ponderousness of the process.

The purpose of my bill and the administration's proposal is to create a fast, firm, and fair system of dealing with asylum claims by persons who enter this country illegally. I think we can assure fairness with a supervisory review without the cost of delay in review by a member of some superasylum review officer corps.

Another concern with this proposal is adequate resources. We too often have enacted good immigration reform legislation but have failed to provide adequate funding. As a result, we have had legislation which has proven ineffective. A good example is the employer sanctions provisions of the Immigration Reform and Control Act of 1986, legislation that has never been fully and effectively enforced by the Immigration Service due principally to the lack of adequate resources and, of course, the other reason is because the documents presented have all been fraudulent and gimmicked beyond belief. Until we have some form of universal identifier, some form of counterfeit-resistant document, we will not have reform. That can be done in a nonintrusive way.

Because, unless we handle the problems of illegal immigration and gimmickry, we will lose our compassion for legal immigration and bringing in what is now a very generous number, 900,000 people a year—1 million if you want to count it a little differently. Nevertheless we passed that law. We did not provide the funding for the investigators needed to properly enforce it. If we do not provide adequate funding for the doubling of our asylum corps and proper funding for sufficient detention space to hold these aliens who have entered illegally until their claims can be heard, the bill will not be effective. Asylum backlogs will continue to grow and the new procedures will have no deterrent effect. The administration and the Congress must be committed to finding the resources to properly fund asylum and antismuggling legislation, and we cannot simply take the money from other immigration activities. That agency is already underfunded.

So I do appreciate the efforts of the administration to address this growing problem. I suggest several changes in the President's proposal but there is much in the proposal I can support and will. Much of it is essentially in accord with my own activities with immigration reform bills.

It is a good first step, and there is much, much more to do. I thank the chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I ask unanimous consent that I might proceed in morning business for a period not to exceed 15 minutes.

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

THE NOMINATION OF RUTH BADER GINSBURG

Mr. SPECTER. Mr. President, I am going to use this lull in the proceedings to make my statement on the nomination of Judge Ginsburg, which is scheduled for debate on Monday. But I want to use the time now.

An affirmative vote for Judge Ruth Bader Ginsburg to be Associate Justice of the Supreme Court of the United States is not as easy for me as it is for most, if not all, of my Senate colleagues. While I have no doubt about her being eminently well qualified for the position, I am greatly concerned over the course of the confirmation process that not enough questions have been answered at the confirmation hearings. At her hearings before the Judiciary Committee, Judge Ginsburg declined to answer most of the substantive questions which the members addressed to her.

I believe, and I think many of the other Senators believe, that she should have answered more questions. I am concerned that her confirmation, on the heels of previous confirmations, only leads the Senate further down the road of unwelcome precedent for future nominations.

Until 1925, no nominee had ever appeared before the Senate or any of its committees to testify. Testimony by a nominee did not become routine until Justice Felix Frankfurter was nominated in 1939, and even into the 1940's a nominee to the Supreme Court refused to appear before the committee to testify and was confirmed.

For years, nominees took a consistent position that they would discuss only their records and their background, but they declined to discuss legal philosophy either in the particular or in the abstract. Despite the fact that the Supreme Court became more and more active in decisions which affected all Americans through the 1950's and 1960's, still, nominees to the Court declined to answer questions about judicial philosophy.

My service on the Judiciary Committee began in 1981, and I have been through eight Supreme Court confirmation hearings. As we have proceeded, more and more we began questioning nominees about judicial philosophy. The nominees have had to tread

a fine line as we developed our inquiries to delve more deeply into a nominee's judicial philosophy.

Given the fact that no one wants to appear before a judge who has predetermined the case, it is understandable that nominees have not and should not discuss their views on particular cases which may come before the Court. At the same time, nominees generally have discussed their opinions on certain well-settled issues or on fundamental principles.

A major turning point came during the hearings on Judge Robert Bork. Members of the Judiciary Committee engaged in detailed examination of Judge Bork's judicial philosophy on many issues such as free speech, judicial review, and the proper means of interpreting the Constitution. Judge Bork did not discuss his position in specific cases that might come before the Court, but he gave the committee and the Senate a detailed look at his judicial philosophy.

Among other nominees in the 1980's, there was a wide degree of difference on how far they would go in answering questions. For example, Justice O'Connor expressly endorsed the death penalty as an appropriate sanction. She had previously voted for it as an Arizona legislator. Justice Kennedy refused to give his view on the death penalty.

Judge Souter endorsed the death penalty as constitutional, even though he, like Justice Kennedy, had not expressed a view before the hearings.

Against this background of evolving standards, Judge Ginsburg answered few questions. For example, I asked her about her concurring opinion in a suit by Members of Congress under the War Powers Act. From this point, I took the inquiry to the next level and inquired about Congress' authority to declare war.

When I asked Judge Ginsburg whether the Korean military engagement was a war as contemplated by the constitutional provision giving Congress sole authority to declare war, she responded that she could not answer the question without briefing and oral argument.

Obviously, no case is going to come before the Supreme Court involving the Korean war, and it seemed to me that this question required only a commonsense response regarding a matter which had arisen during her young adulthood. It was an appropriate question for Judge Ginsburg to give us some insight into her approach to an important historical event. She could have answered without prejudging a case which would actually come before the Court.

Judge Ginsburg also refused to answer questions regarding her approach to the propriety of Supreme Court decisions overturning longstanding statutory interpretations that Congress had implicitly accepted. I asked her about her view of the Supreme Court acting as a superlegislature and Supreme Court activism as a revisionist court in changing the law and making new law in two major cases in the late 1980's. One was Wards Cove, a 5–4 decision handed down in 1989 which overruled a unanimous Supreme Court decision in the Griggs case in 1971 interpreting the 1964 Civil Rights Act. Despite the fact that Congress had let the Griggs decision stand for 18 years, the Supreme Court proceeded to change the law in Wards Cove. When I inquired about her view of the propriety of that kind of judicial activism, she declined to answer.

Similarly, she declined to respond to my inquiry involving the decision of the Supreme Court in Rust versus Sullivan which upheld the Department of Health and Human Services' 1988 regulation imposing the gag rule. That rule prohibited counselors from telling clients about the opportunities for abortion where Federal funds were involved under title X of the Family Planning Act of 1970.

For some 18 years, that kind of counseling was permitted, but in the face of 18 years of congressional acceptance of the regulation, the executive changed the regulation and the Supreme Court upheld this change by a 5–4 vote.

My inquiries regarding these two cases related to judicial philosophy on a nominee's deference to Congress when longstanding interpretations of a statute, one by the Supreme Court and the other by the executive branch, which had received longstanding congressional approval, were overturned by the Supreme Court of the United States.

I was not asking Judge Ginsburg about how she would vote in any particular case, but more broadly about her approach to judicial respect for congressional intent in such cases where Congress, in effect, acts intentionally by not acting at all. She declined to answer those questions.

These are only a few examples of Judge Ginsburg's refusal to discuss her judicial philosophy. While she was more forthcoming than recent nominees about her support for the right of a woman to make reproductive choices, she declined to answer many questions on a wide variety of subjects.

Mr. President, there is no doubt about Judge Ginsburg's overall competency. She has an outstanding law school record, having attended Harvard and Columbia, being a member of the Law Review at both schools. She has a superb record as a practicing lawyer, having argued cases before the Supreme Court of the United States and won many landmark decisions. Her work as a jurist over 13 years has been similarly outstanding.

One of her strong traits has been to write brief opinions, which is rather unusual for a judge or a Justice. As she articulates it, she likes to keep it tight and right. Some of her opinions resemble Justice Oliver Wendell Holmes', a Supreme Court Justice noted for brevity in opinions, in clarity and brevity. In fact, it takes a long time to write a short opinion.

So her record is outstanding, and for the reason of her record and her prospects as a Supreme Court nominee, I support her nomination for the Supreme Court of the United States. But in voicing that support, I articulate a reservation and a concern about the limited number of questions which she answered. In fact, I believe the Senate and the Judiciary Committee are responsible for setting the stage with so much approval in advance that her nomination was realistically assured.

We have seen, as a matter of practice, that the nominees to the Supreme Court of the United States answer about as many questions as they really have to answer. When Chief Justice Rehnquist was up for confirmation for the Chief Justice's position, for which he was ultimately confirmed on a vote of 65 to 33, and there was a realistic question about his confirmation to that position, he answered very significant questions saying that the Congress of the United States did not have the authority to take away the jurisdiction of the Supreme Court on first amendment issues. That, to me, Mr. President, is a very important subject. If we do not establish the supremacy of the Court to interpret constitutional issues, then our entire constitutional structure is in doubt.

Judge Ginsburg did answer the question that she supported Marbury versus Madison, which established the supremacy of the Court on constitutional issues, but she would not answer the question as to whether the Congress could take away the jurisdiction of the Supreme Court to hear cases under the equal protection clause of the 14th amendment. The equal protection clause of the 14th amendment is vital for individual rights. Judge Ginsburg, as a lawyer, established her reputation on cases involving equal protection of the law. That has been a principal source of her interest in advocacy and the issue which she has pushed: women's rights.

But if the Congress has the authority to take away the jurisdiction of the Supreme Court, the Court could not pass on those issues. And, in fact, we would not have constitutional protections. That is why I pressed for an answer from Judge Ginsburg. I did not get the answer.

It is my concern that we have slid back from the scope of questions to which we have received answers from Judge Bork who answered a great many, as I think realistically he had to, to have a chance for confirmation, although he was not confirmed.

My reading of the record shows Judge Ginsburg answered fewer questions

than Justice David Souter, than Justice Anthony Kennedy, than Justice Sandra Day O'Connor. Only Justice Antonin Scalia answered fewer questions than Judge Ginsburg.

Judge Ginsburg did concede that the opinion of the Senate and the voice of the Senate in confirmation stands on an equal footing to the opinion of the President in making the nomination. But the Senate cannot discharge that constitutional authority unless it has latitude to receive answers to its questions.

My judgment, Mr. President, on a nominee depends on a balancing of his or her record before the hearings—academic, professional record—and the nominee's willingness to be responsive and the substance of those responses. Despite my substantial reservations on the responsiveness of Judge Ginsburg, I am voting for her because of her outstanding educational, professional and judicial qualifications.

I hope that it will not be necessary to reject nominees in the future because of lack of responsiveness to Senators' questions, but I do express the reservation, the caveat, that it may become necessary as the only way to establish the appropriate balance to enable the Senate to perform its constitutional duty on advise and consent.

Mr. President, I wish to acknowledge the outstanding assistance given to me in preparation of the hearings themselves by my former law partner, Mark Klugheit, of the Dechert, Price & Rhoads firm in Philadelphia, and my Judiciary Committee chief counsel, Richard Hertling.

Mr. Klugheit came to Washington to serve as counsel for the Impeachment Committee on Judge Alcee Hastings and then returned as an unpaid volunteer for the preparation of hearings on Judge Ginsburg. Mr. Klugheit assembled a team of summer associates from Dechert, Price & Rhoads. And I thank Jennifer Arbittier, Scott Rose, Silvestre Fontes, Rachel Nosowsky for their research assistance, and also, in my Judiciary Committee office, Alison Serxner who assisted Mr. Hertling. It was a voluminous task to read more than 300 published opinions, a large number of unpublished opinions, and some 75 articles which Judge Ginsburg had written to prepare for the questioning and evaluation of the nominee, and I thank those individuals for their assistance.

Mr. President, I ask unanimous consent that the appendix to my written statement to which I earlier referred to be printed in the RECORD.

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

APPENDIX—EXAMPLES OF JUDGE RUTH BADER GINSBURG'S REFUSALS TO ANSWER OR NONRESPONSES TO QUESTIONS ASKED BY MEMBERS OF THE JUDICIARY COMMITTEE DURING HER CONFIRMATION HEARINGS, JULY 20–JULY 22, 1993

The CHAIRMAN. So what did you mean when you said, Judge, in the Madison lecture that it ended race discrimination in our country, perhaps a generation before State legislators in our southern States would have budged on the issue? Are you saying that the Nation itself may have been in sync with Brown and the Court not that far ahead of the Nation, and it was only that part of the country?

Judge GINSBURG. Well, the massive resistance was concentrated in some parts of the country, that there was discrimination throughout the country I think is undoubtedly the case. But there was certainly a positive reaction in Congress, not immediately, but first the voting rights legislation started in the fifties, and then the great civil rights legislation of 1964. The country was moving together.

The CHAIRMAN. It was a decade later. My time is up, Judge. You have been very instructive about how things have moved, but you still haven't—and I will come back to it—squared for me the issue of whether or not the Court can or should move ahead of society a decade, even admittedly in the Brown case, it was at least a decade ahead of society. The Congress did not, in fact, react in any meaningful way until 10 years later, and so it moved ahead.

One of the things that has been raised, the only question that I am aware of that has been raised, not about you personally, but about your judicial philosophy in the popular press and among those who follow this, is how does this distinguished jurist distinguish between what she thinks the Court is entitled to do under the Constitution and what she thinks it is wise for it to do. What is permitted is not always wise.

So I am trying to get—and I will fish for it again when I come back—I am trying to get a clear distinction of whether or not you think, like in the case of Brown, where it clearly did step out ahead of where the Nation's legislators were, whether that was appropriate. If it was, what do you mean by it should not get too far out ahead of society, when you talked about that in the Madison lectures?

But I will give it another try. I think you not only make a great Justice, you are good enough to be confirmed as Secretary of State, because State Department people never answer the questions fully directly, either.

Senator KENNEDY. Well, we have overturned those decisions now in the Civil Rights Act of 1991. I am asking you whether you are willing to express an opinion about those cases that were overturned since it won't come back up to you and since now we have legislated in those particularly cases.

Judge GINSBURG. I don't want to write a Law Review commentary on the Supreme Court's performance in different cases. I think the record of what went on in the lower courts, in some of those instances the Supreme Court's position was contrary to the position that had been taken in the lower Federal courts, and in the *Ward's Cove* case, in the *Patterson* case. And it is always helpful when Congress respond to a question of statutory interpretation, as it did in this case, to set the record right.

Now, sometimes I spoke of the Pregnancy Discrimination Act and Title VII. I think that Congress was less clear than it could have been the first time around. Maybe that wasn't apparent until the case came up. Congress reacted rather swiftly and said, yes, discrimination on the ground of pregnancy is discrimination on the ground of sex, and Title VII henceforth is to be interpreted that way.

So I think it is a very healthy thing. It is part of what I called the dialogue, particularly on questions of statutory interpretation; that if the Court is not in tune with the will of Congress, that Congress doesn't let it sit and makes the necessary correction, that can be even on a constitutional matter—and I referred to the *Simka Goldman* case yesterday when Congress fulfilled the Free Exercise Clause more generously than the Court had.

Senator METZENBAUM. My question to you is: How would you view an antitrust case where the facts indicated that there had been anti-competitive conduct but the defendant attempted to justify it based on an economic theory such as business efficiency?

Judge GINSBURG. I am not going to be any more satisfying to you, I am afraid, than I was to Senator Specter. I can answer antitrust questions as they emerge in a case. I said to you yesterday that I think the only case where I addressed an antitrust question fully on the merits was in the Detroit newspaper case where I think I faithfully—or at least I attempted to faithfully interpret the Newspaper Preservation Act and what Congress meant in allowing that exemption from the antitrust laws.

Senator METZENBAUM. Indeed you did.

Judge GINSBURG. Antitrust, I will confess, is not my strong suit. I have had, as you pointed out, some half a dozen—not many more—cases on this court. I think I understand the consumer protector, the entrepreneur, individual decisionmaking, protective trust of those laws, but I can't give you an answer to your abstract question any more than I could—I can't be any more satisfying on the question you are asking me than I was to Senator Specter on the question that he was asking.

If you talk about my particular case—and it was a dissent. There was a division in the court on how to interpret that statute. I think I tried to indicate what my approach—I think that case indicates what my approach is in attempting to determine what Congress meant. But I can't, other than saying I understand——

Senator DECONCINI. Let me put it this way, Judge: Do you think there is any merit to a process within the judicial branch of government, which would permit the removal of a judge?

In other words, what if a constitutional amendment set up or gave authority to the judicial branch to set up procedures where complaints could be heard? A judge would have an opportunity to respond and to have a hearing and to appeal the hearing, and what have you, and that the Supreme Court or somebody within the judicial branch could, in fact, dismiss the judge. Have you given that any thought?

Judge GINSBURG. I understand that the Kastenmeier Commission that has been looking into the discipline and tenure of judges, has come out with a preliminary draft of its report that takes a careful—that commission has been operating for some time and it is supposed to have a very broad charter to take a careful look at all these areas.

I will read the final report when it comes out with great interest, but I don't feel equipped to address that subject.

Senator DECONCINI. Let me ask you this: Is it offensive to you, if the judiciary had authority to discipline judges and that discipline could also include dismissal?

Judge GINSBURG. We already have an in-house complaint procedure, as you know.

Senator DECONCINI. Yes, I do.

Judge GINSBURG. And I think that has worked rather well. It has never come to the point in all my 13 years there has been an instance calling for removal.

Senator DECONCINI. My problem, Judge, is what do you do with a convicted judge? Wouldn't it be appropriate for the judiciary to have a process that they could expel that judge? I mean I am giving you the worst of all examples. I am not talking about the litigant who is unsatisfied, doesn't like the ruling of the judge and, thereby, files a complaint as to moral turpitude of the judge, and then you have a hearing on that. I am talking about something that is so dramatic as a felony conviction of a judge.

Judge GINSBURG. Senator, I appreciate the concern that you are bringing up, and it isn't hypothetical, because there are judges who are in that situation. They are rare, one or two in close to a thousand.

Senator DECONCINI. I think there are two.

Judge GINSBURG. So I appreciate the problem. When I was asked before about cameras in the court room, I was careful to qualify my own view, saying I would, of course, give great deference to the views of my colleagues on this subject, and there is an experiment going on now in the Federal courts on that subject.

Here I don't even feel comfortable in expressing my own view, without the view of the U.S. Judicial Conference on this subject. I know that the judges are going to study the Kastenmeier report, and they are going to react to it. I can just say that I appreciate it is a very grave problem.

Senator LEAHY. Does that mean that the Free Exercise Clause and the Establishment Clause are equal, or is one subordinate to the other?

Judge GINSBURG. I prefer not to address a question like that; again, to talk in grand terms about principles that have to be applied in concrete cases. I like to reason from the specific case and not——

Senator LEAHY. Let me ask you this: In your view of the Supreme Court today—or do you have a view whether the Supreme Court has put one in a subordinate position to the other?

Judge GINSBURG. The two clauses are on the same line in the Constitution. I don't see that it is a question of subordinating one to the other. They both have to be given effect. They are both——

Senator LEAHY. But there are instances where both cannot be upheld.

Judge GINSBURG. Senator, I would prefer to await a particular case and——

Senator LEAHY. I understand. Just trying, Judge. Just trying.

Senator SIMON. If I could get you to be a little more specific here, if I can ask, not in commenting on the substance of the Alvarez case—incidentally, he was tried in the United States and not found guilty—but were you at all startled, when you heard about the results of the Alvarez case?

Judge GINSBURG. If I may, Senator, I would not like to comment on my personal reactions to that case. I think I told you what my view is on how U.S. officials should behave, and I would like to leave it at that. This was a decision of the United States Supreme Court that you have cited, and I have religiously tried to refrain from commenting on a number of Court decisions that have been raised in these last couple of days.

Senator FEINSTEIN. Thank you, Mr. Chairman.

Just to try to pursue that a little bit further, Judge Ginsburg, could you talk at all about the methodology you might apply, what factors you might look at in discussing Second Amendment cases should Congress, say, pass a ban on assault weapons?

Judge GINSBURG. I wish I could, Senator, but all I can tell you is that this is an amendment that has not been looked at by the Supreme Court since 1939. And apart from the specific context, I really can't expound on it. It is on area in which my court has had no business, and one I had no acquaintance as a law teacher. So I really feel that I am not equipped beyond what I already told you, that it isn't an incorporated amendment. The Supreme Court has not dealt with it since 1939, and I would proceed with the care that I give to any serious constitutional question.

Senator MOSELEY-BRAUN. So I have two questions. The first is, in a situation like this, if the property owners challenge the government action as a taking of their property, what principles should the Supreme Court look to in evaluating that claim?

Judge GINSBURG. Senator, the question has some kinship to the one that Senator Pressler raised about the wetlands. It is just evolving. There is a clear recognition that at some point a regulation does become a taking. When that point is reached is something to be settled for the future.

We do know that, as I said in the Lucas case, when the value of that property is totally destroyed as a result of the regulation, that is indeed a taking and there must be compensation for it. Reliance is certainly one of the factors that goes into the picture.

As I say, this is just a developing area and it is still evolving and I can't say any more about it than is reflected in the most recent precedents in the Nolan case and in the recent Lucas case of the Court. But there certainly is sensitivity to the concerns. One, the regulations for the benefit of the community, which you mentioned, and the other is the expectation, the reliance of the private person, and those two will have to be balanced in the future cases coming up. But this is an area that is very much evolving now, and I can't say anything more than I have said about it so far.

Senator HATCH. But in the International Funding case, you cited Harris v. McRae favorably in support of a distinction you drew between funding restrictions that are permissible and those that are not. Irrespective of your views on the policy of abortion funding, do you agree that Mayer and Harris, those two cases, were decided correctly?

Judge GINSBURG. I agree that those cases are the Supreme Court's precedent. I have no agenda to displace them, and that is about what I could say. I did express my views on the policy that is represented. That is not something that anybody has elected me to vote on.

Senator THURMOND. One vocal critic of this decision said that the Supreme Court has now created an entirely new constitutional right for white people. Judge Ginsburg, do you believe this to be an accurate assessment of the Shaw decision? And if confirmed, how will you approach challenges to reapportionment plans under the Equal Protection Clause?

Judge GINSBURG. Senator Thurmond, the Shaw case to which you referred was returned to a lower court. The chance that it will return again to a higher court is hardly remote. It is hardly remote for that very case. It is almost certain for other cases like it. These are very taxing questions. I think that the Supreme Court has redistricting cases already on its docket for next year, so this is the very kind of question that would be injudicious for me to address.

Senator GRASSLEY. Well, there wouldn't be any question about separation of powers protecting Members of Congress from applicability of criminal laws against this. What principal distinction can there be made of having employment laws or civil rights laws applied to Congress?

Judge GINSBURG. I think if you ask the counsel to the Senate, who argued very effectively in a number of Speech or Debate Clause cases before us, for a brief on that subject, that office would be best qualified to address it.

Senator GRASSLEY. Well, I believe before long you will be addressing it sometime. Obviously that would keep you from responding to specific question, but——

Judge GINSBURG. If and when, I would have the benefit of the wonderful brief, I hope; the briefs on both sides. But that is the difficulty that I confront in this milieu. I am so accustomed—and as a judge, it is the only way I can operate, on a full record, with briefs, and not making general statements apart from a concrete case for which I am fully prepared with the arguments that parties make on both sides.

Senator BROWN. I wanted to cover one last area, and it may be an area you would prefer not to explore. If you do, I would certainly understand.

I believe earlier on Senator Cohen and others had brought up a question with regard to homosexual rights. I would not expect you to rule on something or advise on something that may well involve a case. But there is a question I thought you might clear up for us that I think has some relevance here.

The Equal Protection Clause, as we have explored it this afternoon, deals, in effect, requiring sex-blind standards with regard to Government action or legislation, or may well deal in that area. That relates to classes of people; in this case, males and females. Obviously there are other classes.

In the event we are dealing with forms of behavior—and I appreciate that is not a foregone conclusion with regard to homosexuals. That is open to debate whether or not it is a class of people or forms of behavior. But in the event we are dealing with forms of behavior, would they come under the provisions of the Equal Protection Clause?

Judge GINSBURG. Senator Brown, I am so glad you prefaced this by saying you would understand if I resisted a response, because this is an area where I sense that anything I say could be taken as a hint or a forecast on how I would treat a classification that is going to be in question before a court, and ultimately the Supreme Court. So I think it is best that I not do anything that could be seen, be used as a prediction of how I might vote with regard to that classification.

Senator COHEN. What about sexual orientation?

Judge GINSBURG. Senator, you know that that is a burning question that at this very moment is going to be before the Court based on an action that has been taken. I cannot say one word on that subject that would not violate what I said had to be my rule about no hints, no forecasts, no previews.

Senator PRESSLER. Are you uncomfortable that the Constitution's Bill of Rights does not extend to Native Americans?

Judge GINSBURG. I can't express my personal view on that subject. I know that there are many people who care deeply about the concept of tribal sovereignty. I am not a member of one of those communities and, as a judge, I will do my best to apply faithfully and fairly the policy that Congress sets with respect to tribal governance.

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

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I may be able to proceed for a period of time not to exceed for 5 minutes to introduce a bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Vermont for 5 minutes.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1327 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I thank the Chair and I yield the floor.

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

Mr. BURNS. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as if in morning business to introduce a bill.

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

The Senator is recognized for up to 5 minutes.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1328 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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. GRASSLEY. 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. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

REINVENTING GOVERNMENT

Mr. GRASSLEY. Mr. President, I rise early this afternoon to present the first of several statements that I am going to make over the next few weeks on an issue that is really foremost in the minds of many: Reinventing government. It has also been foremost in the minds of famous authors, David Osborne and Ted Gaebler in their now-celebrated book entitled "Reinventing Government." The term reflects a necessity—brought on by taxpayer animosity—for the Government to become more responsive and more effective in its delivery of Federal services. Taxpayer hostility is a result of not just poor service delivery under our present system, but also deals very much with the bottom line cost—maybe even more so.

The challenge to advocates of reinventing government is to reform the Federal bureaucracy so that it performs better, is less wasteful, and allows the decisionmaking, or ownership of Government, to occur closer to the citizenry. In theory, at least, everything, save the Constitution, should be on the table, and it would not hurt if we were on the table either in the respect of always reviewing, to a considerable degree, whatever we do.

The macro benefits to the country would be enormous: More effective service delivery, less Government spending, a need for fewer taxes, and a build-down of the national debt.

All that stands between these worthy objectives and the present system is a reinvention of Dunkirk. Somehow, an enormous, countervailing political will must build. This, alone, can turn back the dynamic of growing government caused by special interests feeding off of the present, failing structure. The people want such change. It is up to us to deliver.

As I proceed with my floor statements between now and the August recess, together with others of my colleagues, I intend to advance such an agenda, beginning with the principles and standards for an effective reinvention. I intend to draw on the insights in Osborne and Gaebler's book, on my own experiences attempting to reinvent the Defense and Justice Departments during the 1980's, on such management legends as W. Edwards Deming and Peter Drucker, and on many others.

In essence, this agenda would be an extension of my defense reform efforts of the 1980's, only this time applied to all of Government.

I would especially like to commend the work and leadership of Senator ROTH of Delaware, Mr. President. Senator ROTH has advanced the cause of reinventing Government in the Senate, and in a bipartisan way, for many years, even before this administration committed itself to reinvention. The administration's stated commitment gives us the foundation for true bipartisan cooperation. Many of us on this side of the aisle have long advocated fundamental reform of the Federal Government. We look forward to the opportunity to form a bipartisan coalition for constructive change.

The centerpiece of Senator ROTH's efforts has been two reinvention bills, each of which I have cosponsored.

One of the bills has passed the Congress already—the Government Performance and Results Act. This act is a model for setting performance goals for Federal programs so that effectiveness can be measured and monitored.

A second bill, the Reinventing Government Act, would establish an entity similar to the Base Closure Commission that would tackle the tough issues of which programs and agencies to reform and how.

In my view, this approach has worked effectively. It has worked on perhaps the thorniest issue of all facing a representative institution such as ours: the closing of military bases in our States and districts.

If Government indeed is to be reinvented, and democracy revitalized, this law would give us the best chance of succeeding, in my view. Again, that is something that we need to commend the Senator from Delaware [Mr. ROTH] for his leadership in this area.

I should also commend the efforts of the President and the Vice President. Under their leadership, the seed has been planted for real Government reform at the highest levels of our Government. In my view, if it took Nixon to go to China, it will take Democrats to reform the welfare state. I have lived and practiced under this adage: It took a CHUCK GRASSLEY and other Republicans to reform the Defense Department and to lead the way to the freeze of the Defense budget in the 1980's. I believe in this principle, and I can testify to its effectiveness.

Mr. President, I would like to help define what it means when we use the term reinventing government. Consistent with any organizational reform or turnaround, we must begin with fundamental questions: What is it that we do now, and what is it that we should continue to do?

In the case of reforming Government, this means asking and, of course, answering the following three questions about those things the Federal Government now does:

First of all, what functions should the Federal Government continue to do as it does now; that is, rowing? That is what I call rowing, like rowing a boat.

Second, what functions should the Federal Government no longer do, but rather maintain a guiding hand in; that is, steering? That is what I call steering, like steering an automobile.

Third, what functions should the Federal Government turn over to State or local governments, to communities, to foundations, or to private industry; that is, drydocking, I call it, to coin a phrase.

Answering these three questions will create three categories for Federal programs and functions. I would like to look at them separately.

First, there is rowing. These are programs that the Federal Government must do. One example would be administering to the national defense. This is a function that the Government must do itself to provide for the collective defense of the Nation.

Second, there is steering. These are programs in which the Government's policymakers may want to maintain a hand in the decisionmaking process. But their resources for service delivery would not be relegated to the civil service. Private and/or semiprivate entities could compete for service delivery to ensure effective service. One example of this could be welfare reform, where State governments and communities supplant the role of the Federal Government's AFDC Program. Under the present system, the civil service holds a monopoly on service delivery. It seems to me this must be corrected.

Finally, there is the third aspect, what I call drydocking. I have coined this phrase to signify a third category of functions that is not provided for in Osborne's and Gaebler's book entitled "Reinventing Government." Drydocking is for those programs we would determine should no longer have Federal Government involvement. For example, perhaps we would decide that the Federal Government should no longer be involved in the passenger railroad business.

The expected benefits from reinvention are compelling, both tangibly and politically. The results would yield cheaper, more effective Government services; in the longer run, we could expect lower budgets and fewer taxes; we would gain competition for the delivery of Government services; we would restore gradual ownership of our Government to the citizenry, and, in the process, we would revitalize democracy.

Mr. President, I intend to, and I am sure the Senator from Delaware [Mr. ROTH] as well, in forthcoming floor statements, will be more specific with regard to standards and principles for reinventing government. We will be more specific about how the Federal Government can row better, and how it can transition from rowing to steering, or from steering to drydocking of various programs. Today, I merely wanted to discuss the broader context of the issue, and to begin the process of defining what it is and how it should be applied.

Mr. President, I would also like to call my colleagues' attention to the most recent issue of the magazine We the People. The magazine is, fittingly, dedicated to reinventing the Nation's legislature. It is put out by the Congressional Institute, a reform-minded think tank here in Washington.

The July/August issue of We the People is, in essence, a primer on reinventing Government. I commend its reading to my colleagues, and I will ask unanimous consent to include several articles from the issue in the RECORD. These articles comprise good background reading as we prepare to tackle the system.

In closing, Mr. President, I once again commend the leadership on this issue of the President, the Vice President, and the Senator from Delaware [Mr. ROTH]. I hope we can continue a constructive, bipartisan approach to reforming the Federal Government and to restoring much of the ownership of Government back to the citizenry.

Mr. President, I ask unanimous consent to print in the RECORD the material to which I have referred.

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

[From the Congressional Institute, July–August 1993]

IN THE MARKET FOR A REVOLUTION

It seems like long ago but, last November, the voters "reinvented" one-fourth of the U.S. House, in the greatest turnover since Truman, to trigger reform and create jobs. Most of the 110 freshman Reps have since dropped from sight.

In their place, we watch (1) an Administration unable, after months of being unwilling, to govern from the innovative center; and (2) a Congress taking back its Constitutional lead on fiscal matters, yet refusing to forsake tax-and-spend—in short, wielding the right powers in the wrong direction.

None of this is revolution; all of it is revolting. The Political Class can't afford any more such triumphs—and American politics can't take any further self-destruction. For what has "politics" become? A noxious nexus, joining the force of government with the farce of campaigns, sheltering a welter of occupations that comprise a unique industry.

And the shelter is falling down: To view politics as an industry is to be startled, because this vast sector has no satisfied customers—except those it buys. (No wonder the wildcatter Perot's "favorables" are back to the peaks of June '92.)

But our diagnostic isn't wholly caustic. In fact, this magazine is filled with proposals for public life after the "near-death" of politics as we've known it. We favor Managed Revolution.

So we dedicate this issue to those who would lift politics beyond protest, and government beyond greed. Our most receptive readers could be those of you who'd like to add some innovation to career-preservation—they often mix.

WHO STRANGLED POLITICS?

McGovern liberals, Reagan conservatives and everyone in-between, need a new framework—because the political system and culture shared by everyone 35 and over is on its deathbed, Three megafactors are both cause and symptom:

Divided Government. Every time they prevent either party from having unified command, voters hand a blank check to every excuse-making, responsibility-repellent pol in the Washington Beltway. Having gridlock between White House and Congress (instead of between an in-party and its loyal opposition) elevates the visibility of "politics" while reducing its substance.

During the Nixon Era, and again under George Bush, a bipartisan establishment mangled the economy: Exploding deficits, hyper-regulation, feeding bureaucracy without exercising governance. Each time, because neither major party had deniability, both were judged guilty, and a floodtide of congressional turnover began.

From 1974 through '80, Congress was given a vast transfusion of new blood. (During those four election cycles, no one spoke of term limits, as 120 new Republicans, and even more new Democrats, came into the House.) From 1992 through at least '96, look for the same kind of cumulative legislative purge. Divided Government ended last November, but its policy-debilitation drags on—and so, in congressional terms, will the electorate's retribution.

MASS FISCAL IGNORANCE. Everyone knows deficit spending is out of control, but how many truly know why? Much of the middle-class thinks it pays for everything and receives little or nothing. This comforting notion was stoked by every candidate who raised a rhetorical fist against Washington, from Wallace to Nixon to Carter to Reagan to Clinton. A populist message—"you're getting shafted"—wins the election, then renders deficit-reduction a hard sell: Why sacrifice benefits if you believe you're already being shorted?

INTENTION DIVORCED FROM RESULT. This problem is so vast you can hardly see it. Since LBJ's time, the U.S. political system has split "meaning well" from delivering the goods. Both Beltway and citizenry share in this syndrome. How? Each signs off on expanding programs that don't work. Beltway officials do this because every failure "earns" more resources. The related interest groups keep the officeholders in line. How? With polls showing broad-based support for more spending, on nearly everything. This racket is insane—but it also makes perfect sense.

THE LOGIC OF INSANITY

Why would a populace devoid of faith in Washington want it to spend more on most domestic functions? Because (a) the majority doesn't want to sound, or feel, hardhearted; and because (b) out-of-power politicians routinely claim the additional money can be transferred from "waste, fraud and abuse."

A third reason people tell pollsters they favor more social spending is lack of an alternative: Precious few officeholders, either on the right or on the left, fight for "activist government"—meaning the delivery of results, along with responsibility, to the deserving needy while supplanting the welfare-state provider class. The coalition that does this will win big. The Kemp/Weld/Armey Empowerment agenda, and the original Democratic Leadership Council, were halfway there.

But Kemp, as HUD Secretary, lost out to a White House whose grounding principle was a compromising position; the DLC's program has been swamped by Capitol Hill hog-feeders.

These defaults appear totally irrational—so there must be some powerful reasons for them. Those reasons emerge starkly when politics is viewed as a unique industry, lately under siege.

The Political Class manages an "industry" headquartered in Washington, D.C. Over 60 years, the sector's command of national resources tripled. But, since 1989, everyone in (or near) politics has sensed something wrong with the fundamentals. And just who is "everyone"?

The national parties. Most lobby groups. An Administration whose optimism turned to panic in 120 days. The New York news media, though technically apolitical and non-governmental. Innovative policy-formulators wondering if they should trade in their green eyeshades for a place at the hog-trough. Deficit-fighters contemplating red ink forever. And Congress's newer Members of Congress—afraid to risk their jobs even though the job-description is being rewritten by what seems an unfriendly fate.

By any corporate yardstick, this vast sector—i.e. much of the federal government, and most of the Political Class that fights over it or feeds on it—is not far from meltdown. Its claim on resources remains at all-time highs, but "market-share"—measured by voter turnout, and compounded by the lowest two-party presidential showing in 80 years—is collapsing.

People don't like how Congressmen are chosen and campaigns are financed. People will not "contribute" more in taxes until the structures already in place bolster personal safety, SAT scores and budgetary honesty. Principled partisan differences are respected (e.g. the 1991 Gulf War debate, when Congress's approval rating soared). But when debates are choked off by House rules, or limited to personal dirt and short-term party gain, the entire political industry looks desperate, and sometimes childish. The debtmeter runs, the industry rots, and Ross Perot digs in.

GOVERNING FROM NEW MODELS

Despite all of that, society is soldiering on and muddling through. If you're not trapped in the inner-city (or the more alarming school systems), it's hard to be resolutely pessimistic.

Though most people fear for their kids' long-run economic prospects, they remain upbeat with their individual lives. New-fashioned Capitalism is resilient, technological growth miraculous. Venture capital exploded during 1992, reversing a four-year slide. Various types of spiritual renewal pick up steam, and Hillary Rodham Clinton befuddles hardliners with an overture to "responsible fundamentalist Right."

As spokesman for the alienated middle-class, Perot also knows, "what works." So do they. Much of what America's Political Class needs can be found on CNBC, in your daily paper's business section, even among friends and relatives: If they went through the auto industry's convulsions or (more recently) computer-sector turbulence, or if they earn a living as designers and retailers, they have a sense of industrial catharsis: What it costs, what it delivers.

Who defines the next future? How do departmental heads cope? Why are charitable donations and "third-sector" voluntarism at all-time highs? And what will we learn by systematically contrasting their effectiveness with the provider classes of the welfare state? How does Al Gore's "reinventing government" effort square with recent corporate-turnarounds?

And what about the other technology-buff on the national-reform stage this summer? Is Ross Perot the fellow to do for political reform what Jack Welch did at General Electric, David Kearns at Xerox, and Eckhard Pfieffer at COMPAQ?

If so, is it wise to "bet the entire company" on a wildcatter who understands command but not leadership? If it isn't the Political Class needs revolutionary alliances with entrepreneurial entities to create alternative reform agendas, and regain market-share, fast.

In Perot, the American system hasn't confronted anyone so procedurally radical since 1932-35, when Gov. Huey Long came at Franklin Roosevelt from the left and right simultaneously. As for Perot's movement, you have to go back a whole century before Long to find a plausible precedent.

NEITHER PARTISAN NOR ELECTED

On May 28, a landmark Nightline showed an eerie video from 1969: Perot, not yet 40, is telling Ted Koppel himself that the movement's name will be United We Stand and deploy electronics to bypass the power structure. Perot followed through—boy, did he ever: 24 years later, we have his "third party."

Yet neither its donors nor its local activists are known to the real parties. A Germond/Witcover column explains: "Chapters from the neighborhood level on up are being formed of individuals who have shelled out the $15 that Perot has set as a membership fee, and chapters are being coordinated into congressional district organizations as grassroots political pressure groups" (National Journal 6/5/93).

What precedent exists for a public yet anonymous, anti-political, middle-class power drive? It's a stretch, but try this one: The Freemasonry Order of the 1820s. No Perot, but their influence was pervasive.

The mysterious disappearance of a renegade lower-class stonemason (after he had threatened to expose the Order's secrets), led to the first national political convention: Not of Masons, but of opposing forces crying "conspiracy." As this grassroots polarization wracked party elites, their leaders (Andrew Jackson and Henry Clay) created a rival network of organization—thus adding roots to a two-party system.

And now that two-party system, severely weakened over decades, is being supplanted by something that isn't a party. "United We Stand America" displays traits of an army, a professional association, and a cult. Not that its leaders are Utopian, but they are angry, and focused. A comprehensive Schneider/Molyneux "Ross Is Boss" report in the May Atlantic Monthly contained this sketch:

"We saw no evidence of a sinister agenda among the activists we met. These were educated people, and they made a great display of tolerance. Women and minorities were given prominent positions in the local Perot organizations. When Perot supporters talked about 'us' against 'them', they meant the people—all the people—against the politicians."

The Perot people comprise a force that may or may not ever form a government—but they can purge the entities that aren't offering governance now. They sound ready to destroy politics to save democracy. And, if they enjoy another 15 months like the last 15, the 1995 Congress will swear in several dozen freshmen elected as neither Democrats nor Republicans. (You heard it here first.)

A REPUBLIC OF PIE CHARTS

Does anyone come close to Perot in marketing treatments for an America less and less governable? If not, who did we recently hire to do the governing, and what are they doing instead? Making no headway on the issue where Perot has done his best work.

Perot's anti-deficit "infomercials" are the first countrywide candor since Jack Kennedy explained the costs of government, and the obligations of citizenship. Instead of building on Perot's best issue, scattered House Members are hedging their bets—by paying $15 to join the local United We Stand. Since when is a good insurance policy so cheap?

A much sounder hedge would be to make the party they already belong to—whether Democrat or Republican—more in-tune with alienated centrists. Since most Senators and Representatives are not part of Congress's Oligarchy, they would have much less to lose by talking straight (for starters) about revenues and outlays—i.e. who pays and who profits.

Local opinion-leaders might step up to the plate and help Congress with the hard work of redesigning the national budget. How should this door be opened? By replacing polls and interest groups with genuine exercises in public judgment (for the concept, see O'Donnell on Yankelovich, pages 15-17).

We should try budget-balancing workshops and focus groups. (The Roosevelt Center and the Committee For a Responsible Federal Budget did some pioneering work with this format back in 1986.) Let Labor locals and Kiwanis volunteers do the show-and-tell, illustrate the tradeoffs, and chair the "mark-up."

That removes the budget's first-cut from interest groups and their Appropriations-subcommittee hostages. It's one way to democratize Perot's pie-chart-and-bar-graph TV show. Without such citizen-participation breakouts, federal legislators face more sleepless nights, as resentment piles ever higher on the doorsteps of officialdom.

FROM PEROT TO LINCOLN

Borrowing a George Will epithet, this essay has used "Political Class" to encompass both national parties; a befuddled Administration; wayward wonks and derailed deficit analysts; corporate operatives whose "product" is amendments and exemptions over goods and services; the non-business media; and hundreds of fretful Reps and Senators unable to risk their jobs to deliver on either a dream or a duty.

Well, guess what: This magazine's producers are par of the Class and so, most likely, are you. "We" are waste-deep in a decomposing industry. And most of "us" are still thinking too small, or too predictably.

When a trusted product fades or an old paradigm cracks, Peter Drucker says, in seeking replacements, to aim high. Here's a try: It's time for what Lincoln called "a new birth of freedom." The public sector must be rejuvenated, or reassembled, to replicate the private sector's results (not to mention the planet's experimentation in self-government).

The Political Class needs to facilitate the supplanting of its corrupt and obsolete elements. By using technology, by allying with proven private-sector reformers, and by producing measurable gains, those ready to govern may win back a fed-up middle class.

Most realms of business practice what Joseph Schumpeter called Creative Destruction. Now it's the politicos' turn—and, as candidate Perot used to say, "it won't be pretty." Perhaps it could be profound? Mr. Lincoln's most insightful biographer remains Harry Jaffa, who noted on page 361 of Crisis of the House Divided:

"Lincoln insisted . . . that there must be some conviction, usually embodied in the form of a story that can be told, comprehended, and taken to heart by all, which produces a sense of community and unites the hearts of those who call themselves fellow citizens. Without that fellow feeling, there is no basis for mutual trust, and where there is no trust there can be no freedom. For political self-government involves governing and being governed, and where there is insufficient trust, the idea of making others the trustees, for however limited a time, of our dearest interests does not make sense." So trust must be rebuilt.

Along the trail, political operatives might find balance, even empathy, in Lincoln's realism, expressed in 1842, right after his 33rd birthday: "Few can be induced to labor exclusively for posterity; and none will do it enthusiastically. Posterity has done nothing for us; and theorize on it as we may, practically we shall do very little for it—unless we are made to think we are at the same time doing something for ourselves" (Van Doren, Literary Works p. 287).

Lincoln merged vision with human nature to build a new political coalition on the Republic's oldest ideals. One way to "aim high" is to look for something equally grand now. That's why we filled this We The People with proposals for public life after the near-death of conventional politics. Again, it is for those who would take politics beyond protest, and lift government beyond greed, by adding governing innovation to career-preservation.

[From the Congressional Institute, July–August 1993]

MEMO TO THE VICE-PRESIDENT: REINVENTION MINUS CONTENTION WILL BARELY BE WORTH A MENTION

It will look more decentralized, and employees who actually do the work will feel they have more authority to make decisions that affect the quality of their department or agency to do the job. It will be, in short, a high-quality, low-cost government—Vice-President Al Gore, Washington Times 6/3/93.

His final sentence is a valuable dream. If it's to be more than a pipedream, the Vice-President's National Performance Review needs help. After all, how do elected officials navigate wholesale reform of a national governing structure—the kind of change where, at least theoretically, everything but the Constitution itself is on the table? Start with a broad landscape of realities:

Macro: America won't have a majority for "reinvention" until it's half-complete and demonstrating some value. In other words, most voters don't care about this issue; that leaves to elites and opinion-leaders the burden of making it news, and making it credible. And yet, even among the Political Class, reinvention has found few fans.

The bureaucracy's wariness is understandable. But what about Members and activists who have a wider constituency? Why are they leaving this once-a-decade governmental shape-up effort to Al Gore and his insiders?

Because ideological liberals favor Big Government even if it's ineffective. And because ideological conservatives tolerate Bad Government if its costs are contained. The alternative—enhancing a federal program's productivity, i.e. the social value returned on a dollar taxed—might raise Beltway and Civil Service esteem. Why should the Right help them out of the public-opinion doghouse? And yet, if Conservatives hold to this mindset, they'll regain power with no plan for innovative federal stewardship.

Macro: The polls DO reveal support for greater efficiency. To the extent this part of Gore's message reasonates, it is raising expectations. For what? For a painless fix: The Vic-President's road show risks becoming the newest version of removing "waste, fraud and abuse."

When the populace thinks 20 to 40 cents of each tax dollar is "wasted," it becomes simple to solve the budget crisis: Cut back National Science Foundation grants and United Nations salaries. Sting the beekeepers. Weed out welfare chiselers. Blow away Civil Service featherbedders. Take prisoners off Social Security. Shouldn't these simple steps, plus a few other changes, bring the books near balance? A majority thinks so; Gore himself must know better.

Yet he is preparing the country for a limited program the can't possibly reach the presumed and popular goal, i.e. zero deficit under a "high-quality, lost-cost government."

Last summer, Ross Perot broke out of a similar box while tens of millions watched. By mid-October, his new approach—find the facts, share the numbers, ask for help, spread the pain—had gained credibility as a corporate-style turnaround plan. A majority assumed, and probably still does, that Perot's tax hikes would go to deficit-reduction. They believe nothing of the kind about Congress's June budget crescendo.

So why would Al Gore position his Administration for ridicule or (at best) zero payoff on the governmental-reform issue? This is a serious question.

Macro: An organism only reforms when the overall gain—in money, power, self-respect and public acclaim—outweighs the pain. The fuel for all reform is motivation—via vision at the concept level, and by personal incentives in daily worklife. The strongest motivators, for each executive and service-deliverer, must become known, if an institution's incentives are to be changed to support productive behavior. (For how to manage Congressmen to end deficit spending, see Walter Williams, page 2.)

Macro: What gets measured gets achieved. And, in a reformed federal structure, two dissimilar realms need measurement: Processes, and outcomes. Most reinventors and managers are comfortable tracking process—but this is gibberish to the public, and not exciting even to most people reading this magazine. (Where are Mike Dukakis and Dave Stockman when you need them?)

By contrast, outcomes-measurement just might engage the public. Anything that links tax dollars to services received—the way, say, people correlate federal gas taxes with interstate-highway improvements—enhances the national dialogue. It also might make some of the remedies (whether by Gore or more radical teams) mass-marketable, thus triggering some quality-control for field offices and at the citizen level.

Now for the not-so-good news. Except for hiring journalist David Osborne, Gore and Co. have done a great many things wrong:

As of late June, they were working 99% with insiders. The Grace Commission worked 99% with outsiders. Either approach is doomed. You need half and half: Outsiders, led by company turnaround experts, deliver honest auditing, help redefine the vision, and force new priorities. The Civil Service's insiders are partners in setting strategy, partly because they will not carry out what they have not helped set.

Gore's endless anecdotes stoke the national delusion that substantial savings will come from making the feds' trains run on tine. (This is not unlike counselling a cancer patient to join a health club and get a manicure.)

By overselling the payoff and underrating the investment, the National Performance Review is setting itself up to be whacked in the face—with an infomercial pie-chart: Great fun for Perot and the GOP, but it can't be what Al Gore and the President would prefer for fall.

From what we hear, Gore's drift is toward deregulating and empowering the senior bureaucrats plus some field offices. He assumes these managers and providers know what the citizenry wants (and they'll have no reason to disagree with the assumption). But this would be like Hechinger's "serving the public" soley by puffing-up top management, expanding flextime, and copying a competitor's store design—the kind of steps that come long after markets are surveyed and business mission reevaluated.

In government, if you start with, and stop with, provider flexibility, you invite Peter Drucker's "den of thieves." As Indianapolis Mayor Stephen Goldsmith observes, "The purpose of government accounting has always been to prevent officials from stealing money—not from wasting it." That purpose should not be lost by reinventors. To decentralize management, without competitive pressures and mission-reinvention, is to invite not excellence but multimedia versions of the GSA Mess and Operation III Wind.

While Gore reinvents, his colleagues reflate and reregulate. The list is long: The Family Leave Act is another entitlement, with costs marked. The Labor Department fights to outlaw "striker replacement," which is a sop to union-power while it saps job-market efficiency. The proposed National Service Program, seemingly frugal, will nationalize part of American voluntarism—and leave at a fundraising disadvantage all the unfavored charities. And, after all the various budget schemes, not a single program is slated for repeal (no, not even the beekeepers subsidy).

The most egregious decision is to raise marginal income tax rates. This policy has no leg to stand on. It doesn't raise national income. It won't raise the U.S. Treasury income. It reduces the real progressivity of the tax code. It pushes the well-off back to evasion and avoidance. It discourages work, savings, investment and job-creation. It will boost the incomes only of tax lawyers and lobbyists (not empathetic occupations).

Nearly everyone else—West Germany, Japan, Australia, New Zealand, Britain, India, Denmark, even Sweden—reduced marginal rates during the 1980s. To raise them now is mindless. Yet everyone in the Administration supports doing so, never mind that it will be a blow to efficiency (tax manipulators don't need further encouragement) *and* effectiveness (America's level of work, savings and investment).

Granted, tax policy isn't within Gore's task-force purview; all the same, the Clinton/Gore policy initiatives to date fit no definition of reinvention.

For the serious reinventor, many principles of sociology, corporate governance, and political coalition-building need to reinforce one another: It's an inside/outside job, with public/private-sector pooling. So it isn't encouraging to dwell on this passage from James H. Perry in the June 23 Wall Street Journal:

"More than 200 reinventing specialists, most of them career federal employees; are toiling in two downtown offices analyzing all the data. The agencies, with 800 more employees working on the project, are doing their share too; this week, top managers at the Labor Department held a three-day retreat to come up with ideas on reinventing their part of the government. The goal is to produce a final report, free of jargon and analysis by highly paid consultants, in September."

I always cheer jargon-avoidance, but producing a report is not "the goal."—FRANK GREGORSKY.

[From the Congressional Institute, July–August 1993]

DECLARATIONS OF REINVENTION

(By Kris J. Kolesnik)

It's something called "reinventing government," and the Clinton Administration is serious about it. Most serious of all is Mr. Gore, [who] says he wants to invent a government that will be decentralized, that will use market principles, and that will "treat Americans like customers again." What private industry has done in the way of total-quality management, he wants to do for the

federal government.—James Perry, Wall Street Journal 6/23/93 p. A16

Nearly all the media coverage reflects a widespread misunderstanding of the Vice-President's National Performance Review. Should Mr. Gore himself share the same misunderstanding, his noble endeavor to "reinvent government" may miss the mark miserably.

Rather than systems and administration, you have to begin with culture and purpose. The roots of a real "reinvention" are, first, determining what government should and should not do. Once this determination is made, place appropriate limitations on what it does. Only then comes systematic reform—so that what government must do, it performs not only more efficiently, but also more effectively.

Is the Gore Group moving toward this ideal? Or will it talk up "reinventing" while settling for "streamlining"? To "streamline" government is to allow the government to keep doing nearly everything it does now, but with administrative savings. This avoids the fundamentals of purpose and priorities.

The process of reinventing any part of the government ought to resemble how a CEO would restructure and turn around a major private-sector corporation. To merely streamline Ford Motor Co. would not have done the trick. Unless the Veep's task force emulates the Ford turnaround (or other suitable models), this 1993 Reinvention risks becoming the biggest public disappointment since . . . the Grace Commission.

WHY DO WE HAVE AN SBA?

The Small Business Administration makes its loans primarily to the least stable firms and to those rejected by other lending institutions. Default rates are consequently very high. SBA loans contribute to an inefficient marketplace and cost taxpayers a bundle.

The genuine reinventor will ask: Should the government be making such loans in the first place? Can other, non-federal, sources supplant the federal role? Effective reinvention is prefaced with the right questions. It replaces all two-dimensional propositions—e.g., streamlined government vs. bloated government—with more fundamental inquiries.

Why should the federal government be deciding small-business loans? What problems has the SBA's approach wrought? Is there a more effective way to administer the loans? How can we limit federal obligations and still produce results? Why not help small business by simply stopping the hindrance of it by other federal action?

Financial markets are today much more efficient, and much less susceptible to market failures, than when the SBA program was established. So an effective move might be a return loan decisions for small businesses to the financial marketplace. Then examine the rest of government policy, searching out whatever hamstrings venture-capital and smaller enterprises.

EFFICIENT, EFFECTIVE

Two common terms—but what exactly is the difference? Efficiency generally relates to cost. Effectiveness measures performance toward a purpose or mission. Effectiveness might yield efficiencies, but it cannot be gained through efficiency.

As Peter Drucker once put it: "Efficiency is doing things right, effectiveness is doing the right things." A successful enterprise is one that is effective: It performs well—and, the better the performance, the more money it will make.

Performance is what allows a business to compete in the marketplace. Results are what count, i.e. quality goods and services at the lowest possible cost. Making a bad product cheaper does not constitute better performance. "Doing things right" when they are the wrong things can be financially suicidal.

A government bureaucracy, however, does not depend on performance for its revenues. Insofar as the term may be used, "results" for the bureaucracy means a larger budget. And "performance" is the logrolling ability to increase that budget. Serving the stated need or requirement becomes a secondary issue. Money substitutes for policy, PR for performance.

In such an environment, why would efficiency ever be an objective? In fact, it's something to actively avoid—because efficiency inhibits budget growth and therefore hurts "performance" in the bureaucratic sense of that word. This is why government whistleblowers are viewed as enemies of the bureaucracy.

Whistleblowers are viewed from within as corporal germs. And so their supervisors, like white corpuscles, attack the perceived threat. Even if inefficiencies are crushed, they grow back again in time.

Effectiveness is equally anathema to the bureaucracy. Its very mode of payment—budget-allocation, i.e. how much of this year's total "we" get—put effectiveness at odds with a bureaucracy. The first critical question in determining effectiveness is "What should our business be?" To the bureaucracy, this question is the most threatening of all, because it might create controversy. And controversy can threaten budget-allocation.

And yet, as stated earlier, the first critical question of true, effective reform is to ask what the government should and shouldn't do. Without an answer, there can be no mission or purpose; without a purpose, what do we have to measure performance against?

STEERING, ROWING

Perverse incentives are symptomatic of the mode of payment. The perverse incentives for government "performance"—i.e. favoring higher budgets and lower effectiveness and efficiency—must be reversed.

Reversal will come only after we (1) determine what the government should and shouldn't do; (2) set the purpose or mission of government agencies; and (3) create incentives for achieving the mission.

That's what the National Performance Review should do. First, identify those areas the government should not be involved in. Then, recommend phasing out those agencies and employees formerly serving those functions. For the remainder, missions and goals must be defined, with incentives established to facilitate their successful achievement.

This is how you "change the culture." Reeducating federal workers is not enough when they are still rewarded for increasing budget allocation. They must instead be rewarded for achieving the stated mission.

One way to foster favorable incentives is to inject competition into the government's delivery of services. In their book Reinventing Government, David Osborne and Ted Gaebler call for a decentralized government in which, more and more, the federal role becomes that of a catalyst. The authors distinguish between a government that "rows" and one that "steers." Government, they say, should do more steering (setting policy) and less rowing (delivering services). They suggest using resources other than those of the federal workforce to deliver services to taxpayers.

The key issue is not always public versus private, but competition versus monopoly. Bureaucracies, note the Reinventing authors, "are captives of sole-source, monopoly-suppliers—their own employees . . . Monopoly suppliers become a problem as soon as policymakers decide to change their strategies."

To avoid the supply bottleneck, say Osborne and Gaebler, policymakers should have at their disposal an array of private, public and other resources that can compete for service delivery. This would let policymakers seek the best means for achieving their goals. The focus would be on performance, and would not be frustrated by "monopoly suppliers."

The absence of the market test in the delivery of federal services ensures a lack of the discipline that would otherwise compel effectiveness, innovation and a shedding of obsolete programs.

REINVENTION IN FIVE STEPS

Step one: Determine what is the business of the various segments of federal government and what should it be. Another way to pose this is, What are we actually doing, and what do we need to be doing?

The questions are extremely difficult to answer: Difficult for one team, for a whole federal agency, and especially for a Congress which should function as an executive board for much of the government. Precisely because they are hard questions, the most important thing is to ask them, and then let the multiple answers collide.

Step two: Those functions not properly the business of the federal government should be turned over to state and local governments, private organizations, churches, communities, foundations and so on. Public employees and agencies that formerly performed those functions should be phased out.

Step three: for the remaining functions, i.e., those judged a government responsibility, decide whether the federal government should "row" or "steer." For example, the federal government has a rowing function in national defense and some, but not all, administration of justice. But should it also deliver the mail?

Where government once rowed but now steers, public employees and agencies formerly performing those functions could be eliminated or made to compete with other suppliers. Osborne and Gaebler (on page 31 of their book) offer 36 "arrows" in its quiver of innovative and other resources as alternatives to service-delivery by public employees.

Step four: Those functions of government that continue to require rowing must receive clearly defined missions and objectives. They must be measurable; they must be prioritized.

Step five: Measuring performance will determine the success or failure of the program. (As the old saying goes: What gets measured gets done.) Results can be audited by the Office of Management and Budget, with oversight from Congress. OMB must constantly question the utility of federal programs, and force decisions about which older ones the federal government should no longer row.

LEFT IN THE DARK

Reinventing government implies a titanic political struggle; even at the conceptual level, it can vex the sharpest mind. It requires restoring ownership of government to the citizenry—or at least to government entities closer to the citizenry.

To do so will take years, and require doing battle with some of the very forces from which the Vice-President is obtaining advice

about restructuring. In a sense, the Civil Service maintain "property control" of the government. And yet, politically, federal employees are core constituents of this Administration.

True reinvention will require much public understanding and scrutiny—but the public is still unprepared for the enormity of the battle. Let's hope that isn't also the case with the Gore task force. If they are gearing up to propose real change, they need advice for outside the federal workforce, and enthusiasm from beyond the Washington Beltway.

[From the Congressional Institute, July–August 1993]

THE REINVENTOR'S RAGBAG: SORTED AND STUFFED

(By David K. Ramey)

(Congressional researchers generated this hybrid bibliography and commentary. Main author Ramey thanks Cindy Furlong and Ken Phillips for their speedy and thorough research.)

A MIDAS TOUCH IN INDIANAPOLIS

If you want a broad view of what reinvention can mean, but have only 20 minutes to spare (a time-allocation not to count against this magazine), the following four articles are for you: Written by or about Indianapolis Mayor Stephen Goldsmith, they tackle the politics of reinvention; offer Congress a to-do list; explain the key concepts; and make a bottom-line compassionate case for empowering the poor.

(1) "Mayor Stephen Goldsmith: Putting Free-Market Principles to Work in Indianapolis," Virginia Munger Kahn (Investor's Business Daily 4/22/93 pp. 1–2).

William Egger, director of the Reason Foundation's privatization center in Los Angeles: "If he succeeds, it will become the example of how activist, market-oriented solutions can work for solving the crisis of urban America." Not bad bona fides for someone in office only 15 months. Like John Sharp (see p. 12), Goldsmith also advocates moving quickly. Citing the political roadblocks, he notes: "If you want to slim down government, the reason it becomes difficult is politics. We are goring more GOP oxes, because we [Indianapolis Republicans] have been in power so long." Not one to fight entrenched powers with a spreadsheet, Goldsmith adds: "A key part of the process is articulating a vision of the future and managing the process of change."

(2) "Federal Handouts Won't Fix Urban Troubles" (Indianapolis Business Journal 4/19/93).

Goldsmith grabs your attention with this: "The federal government has spent more than $2.5 trillion on America's cities in the last three decades. That's enough to buy all the assets of all the Fortune 500 companies and still have enough left over to buy all the farmland in America. It's the equivalent of 25 Marshall Plans." To help cities attract private investment, Congress should: (1) Work with cities to reduce the harm done by environmental mandates; (2) target capital-gains breaks on urban areas; (3) fix the bizarre federal-grant system; (4) facilitate local privatization; and (5) reform the welfare system.

(3) "When Cities Turn to Privatization" (Wall Street Journal midwest edition 12/3/92).

In an article challenging both conservatives and liberals, Goldsmith argues against headlong privatization (at the local level) without first trying marketization. He writes: "If we were simply to privatize without first creating a competitive environment, the benefits would be minimal." He cites his own experience with street repairs. In full cooperation with the local union, the city's transportation department competed for the contract to fill potholes with private-sector bidders. The department found it could do the job with half the equipment and staff previously used; their bid was thousands under that of the nearest low-bidder.

The Mayor also explains one of the greatest disadvantages local government faces when it tries competition: Lack of reliable cost-information. "Traditional government accounting just does not provide the information managers need to operate efficiently. The purpose of government accounting has always been to prevent officials from stealing money, not from wasting it," Goldsmith notes.

(4) "Bureaucracy Shackles the Urban Poor" (WSJ midwest edition 6/10/92).

Housing, incomes and schools are just three of the markets to which the urban poor are denied access, largely by federal fiat. "From welfare and crime to highways, public transportation and sewers, America's cities are captive to the regulatory morass of well-intentioned but often misdirected bureaucrats," Goldsmith writes. The article cites examples of all of these problems. As to crime, he notes that the Fair Labor Standards Act yields unsafe streets by preventing cities, police departments and unions from freely negotiating overtime pay. This straitjacket limits the patrol hours every big-city police department can afford.

NOTE: New York-based Financial World ranked Indianapolis ninth among the 30 largest U.S. cities, up eight slots from last year. Much of the jump was attributed to Goldsmith's effort to "really track the efficiency and effectiveness of services, and to report those measurements to the public." Contact his social-policy liaison Marcy Kapur at (317) 327–5126, or write to 200 E. Washington, St., Indianapolis IN 46204.

WELFARE RESOURCEFULNESS

Under the 1988 Family Support Act, every state is now required to run a "welfare-to-work" program. About half of the nation's 4.5 million welfare families are exempt, mostly because they have children under age 3. An excellent overview of the welfare-reform issue is found in Congressional Quarterly by Jeffrey Katz; it sets the landscape of politics, personnel, past policies and pronouncements (see CQ 2/27/93 pp. 45861).

Welfare may be the most complex area of government to reinvent—because the behavior of both server and served must be changed. One of many experiments underway does just that. In Riverside (CA) Lawrence Townsend Jr. is the Director of Public Social Services. Six counties in the state have participated in the Greater Avenues for Independence (GAIN) program for the past seven years. Last year, 3.5% of the state's welfare population lived in Riverside, yet 19.5% of the welfare recipients in California who got jobs were from this county. These yields were the best in the state.

How is it done? First, don't encumber the staff with a lot of regulations; Townsend sets a "just do it" tone. Second, it's jobs, jobs, jobs—meaning get one and keep it. (See Los Angeles Times 4/26/93 p. A1 and New York Times 5/16/93 p. A12.) For an excellent set of newsclips on Riverside's GAIN program, call (909) 358–3008. For a two-year study of GAIN by an independent firm, contact Manpower Demonstration Research Corp. in San Francisco at (415) 781–3800.

Back to Mayor Goldsmith, this time about welfare. He first describes (Indianapolis Star 11/29/92 p. 1) his effort to aggressively collect child support and guarantee a minimum "children's allowance" as a way to reorient welfare toward a children's safety net. Also described are ways to allow recipients to earn more, and keep it, as well as get help with transportation and daycare.

The second article (Indianapolis Star 5/14/93 p. 1) describes a more radical approach: Indianapolis has contracted with a private firm to pay a $5,000 "bounty" for every welfare recipient the firm helps off welfare and into a job that lasts six months. The contract with the nine-year old firm, America Works, is set to start this summer. America Works claims results in New York and Connecticut: 68% of their clients are hired permanently after four months and 90% of those are still working a year later, at an annual average salary of $14,000.

At the statewide level, Wisconsin Governor Tommy Thompson is off and running on welfare reform. His office will send you a packet if you call (608) 266–1212.

A recent study shows that Wisconsin has removed more people from its AFDC roles in the last six years than the other 49 states combined. Wisconsin welfare cases are down 17% since 1987. Using "Learnfare" and "Work, Not Welfare," he has implemented financial penalties to keep teenagers of AFDC families in school, and allowed recipients to save up to $10,000 without loss of benefits. Work Not Welfare makes sensible exceptions for hardship cases, but otherwise ends cash benefits after two years. Medical and child-care benefits continue for a third year. (See IBD 5/20/93 p. 1 and WSJ 6/3/93 p. A14.)

Though not on welfare reinvention *per se*, this six-page piece is an excellent review of the major schools of thought on welfare reform. In "Reducing Poverty: Alternative Approaches," Michael Weiss (Current December 1992 pp. 14–19) identifies four distinct ideologies of welfare: (a) Egalitarian Populism; (b) Behavioralism; (c) Residualism, meaning a narrow focus on the most needy; and (d) Social Insurance. Weiss discusses major proponents in each school and how to synthesize their best parts.

Finally, a reminder of who the customers are in any scheme of welfare-reinvention. Emily Menlo Marks is a frontline worker in NYC. In "Taking Steps to Reduce Dependency in New York City," she quickly sketches the fears hopes and practical problems facing the welfare-dependent (see Public Welfare Summer 1992 p. 11).

EPA, BIG BUSINESS AND COST-BENEFIT

An area close to Al Gore's heart, environmental protection would seem tailor-made for techno-fixes and performance-measurement. But Matt Ridley tells a tale of government, environmentalists and big business "conspiring" to prevent problem solving through cost-effective innovations. The story "illustrates how much harder it is to introduce cost-saving new technology into the environmental protection business than into any other." Ridley sums up the cycle of self-protection:

"The polluters wish to exaggerate the costs of cleaning up, and cheap new technologies blow their cover. So they lobby to keep technologies off the list. The regulators care only about whether a rule is enforceable and effective, not whether it encourages cost-efficiency. The environmentalists distrust anything except the most costly option. And the poor old consumer, to whom is passed the cost, has nobody to represent his interest in having the technology that does the job most cheaply" (WSJ 6/9/93 p. A15).

EDUCATION: FACE FACTS, GET SMART

This trilogy constitutes a three-part drama of foreboding, malfeasance and hope.

(1) As Chairman and CEO of Baxter International, Vern Loucks Jr. participated in a Chicago Public Schools experiment. In trying to do the right thing, he realized the problem's enormity. In a speech to the Business/Education Partnership Conference, he declared business to be structually mismatched for a leadership role in long-range reform; he questioned the belief, held in many quarters, that a business-like approach to schooling will yield business-like results. Loucks said "many of us are far too willing to take on part of the problem, and far too few of us are willing to tackle the whole damn thing—that is, the politics that will foster an integration of all the parts into a productive whole. Businessmen want to 'get along' with the world, and so they tend to shy away from controversy. But any effective school-reform effort will be ablaze with controversy. You can't avoid it, and we shouldn't try." (See Vital Speeches 5/15/93 pp. 466–70.)

(2) Now for the truly grisly: Peter Brimelow and Leslie Spencer (Forbes 6/7/93 pp. 72–84) paint a chilling picture of the National Education Association in "The National Extortion Association?" From power politics at the national, state and local level to the gridlock-enhancing appetites of America's largest union, this article describes the "whole damn thing" that Vernon Loucks alluded to above. Two quotes give the flavor:

"Regardless of its needs, NEA dues are a fixed proportion of the average teacher's salary. Thus, just as real-estate agents have a vested interest in rising property prices, so does the NEA have a direct institutional interest in teacher salary increases."

"As Rutgers economist Leo Troy argues in detail in his recent book The New Unionism in the New Society: Public-Sector unions in the Redistribution State, these new unions are fundamentally different from the old, private-sector unions. Their primary weapon is political, not economic, power. They use it to redistribute income toward government, a process Troy call 'new socialism,' and to insulate themselves from the key factor in private sector union decline: Competition, from the service sector and from overseas."

(3) Now for the ray of hope: Recently Bret Schundler, a Wall Street executive, beat the entrenched Jersey City machine for the Mayor's seat. He strongly advocates educational vouchers (for private or public schools) and was heavily opposed by the teachers' unions. Only 6% of the voters were Republicans, but Schundler's second election (to a full term) displayed a majority ten times that size (see "Earthquake Hits," WSJ 5/13/93 p. A14).

A BRAINY NIGHT IN GEORGIA

Two articles discuss a case study plus principles of privatization. First: "From Water to Public Works: One City's Privatization Success Story" profiles the odyssey of the Hinesville (GA) Public Works Department. They took the common tack of testing privatization in one operation, and then turned the whole department over to the contractor. Benefits rose, as did morale for the workers (see American City & County November 1992 p. 38).

Secondly, both sides of the debate are quickly sketched in "Privatization" by Richard Worsnop. Noting that privatization in the U.S. follows no single pattern, he describes its many forms: From vouchers, to lease-backs, to outright sales. He also quotes an AFL-CIO official who perhaps did not realize the applicability of his own words to public-sector union shops: "Once a company has the contract and has acquired all the expertise, training and equipment to do the job, it is very costly for the jurisdiction to switch to another contractor and begin again. The company knows that it has a lock on the contract, so it can increase the rates or perform sloppy work" (CQ Researcher 11/13/92 pp. 979–84).

Short takes on overseas experiments: The new French government's big-time selloff is detailed by David Buchan in the Financial Times 6/22/93 p. 4. Britain's postoffice gamble is handicapped in the Economist 2/13/93 p. 60, while Richard Tomkins is hugely skeptical about turning loose British Rail (Financial Times 1/23/93). Helpful looks at Russian privatization include "You're Privatized. Now What?" by David Brooks WSJ 4/23/93; and "Reform In One City [Nizhny Novgorod, Russia's third-largest]," The Economist 11/7/92.

Back in the USA, a strong op-ed is "Invest In Infrastructure—Privatize" (Robert W. Poole, WSJ 5/5/92). Investor's Business Daily (5/5/92 p.1) profiles privatization guru E.S. Savas, a reformed refugee from John Lindsay's New York City carnival. And Robert Kuttner is always around to attack the very concept, sometimes with a strawman pitch, e.g. "Privatization Is Not A Cure All" (WSJ 4/30/92). Of course, he still describes the Reagan Era as laissez-faire. If Kuttner will quit uttering that absurdity, we'll never call privatization a cure-all.

DOUBLE-DUTY: RESERVES REINVENTING

Imagine total-quality government in a tradition-bound, hierarchical organization whose workers served government customers and private-sectors ones. Where to find this hybrid whose people both consume and produce GDP? The Air Force Reserves, which is halfway through a five-year TQM culture-shift. AFRES chief Major-General John Closner personally taught the 32-hour TQM course to his senior staff. Using a "cascade" method, those senior staff teach the next level, and so on. Modeled on Xerox Corp., AFRES has impressed other services to the point of imitation. In an issue of the AFRES monthly journal Citizen Airman devoted to TQM, the effort at Charleston AFB and elsewhere is profiled (see Citizen Airman February 1992 pp. 3–9).

NOTE: The work of reinvention sometimes intertwines with the concepts of Total Quality Management. TQM was invented by an American, W. Edwards Deming, and perfected by much of Japan's business culture. Many U.S. companies and government entities now practice variants of TQM and America's armed services have quietly started down this road. Congressional readers can request more from the Hill's military liaison offices. Other readers should contact public-affairs offices at the Pentagon for individual services.

THE FEDERAL GOV'T IS A DIFFERENT ANIMAL

Besides problems of scale, implementing real reinvention at the federal level brings unique qualitative problems. First, national policy is just that—national Second, Washington D.C. has the power to mandate and coerce a far-flung enterprise of 260 million owner/customers. Third, BIG is better for pioneering moonshots, or 45-year standoffs with international enemies; but BIG is not nimble, flexible or sensitive. Finally, federal benefits foster interested, organized recipients who come to see their survival as linked to a compliant national legislature.

Given all of the above, these seven standouts have special significance for federal reformers;

(1) "Coming Soon: Internal Markets" by Michael Rothschild. In an internal Market, each business unit operates as an independent company. The idea is to blend agility with size and power. What makes this decentralization possible is the advent of distributed databases allowing low-cost accounting of results and transactions (Forbes ASAP 6/7/93 pp. 19–22).

(2) "Rightsizing Angst" by Alice LaPlante. A concise review of five companies as they attempt to reengineer some, or all, of their operations: "In the midst of a technological revolution as dramatic as any change in business history, many employees come out on the short end of the skills equation. Not everybody is giving up without a fight." LaPlante profiles Whirlpool, Meredith, the Canadian Wheat Board, Federal Express and Borden (Forbes ASAP 6/7/93 pp. 94–104).

(3) "In Search of Bureaucratic Excellence" by Harold Williams. Williams worked 20 years each in the private sector and federal government, plus four years in state government. In this 1986 article, he outlined a 10-year experiment to try the lessons of well-run companies in one federal agency: "The successful companies foster a climate where there are loose controls over employees and tolerance for individuals, while at the same time insisting on tight adherence to the central values of the company. The culture of the typical federal department is exactly the opposite. It might be called 'tight/loose.' Federal employees are given little opportunity to exercise initiative, but there is a great tolerance for ineptitude" (The Bureaucrat Spring 1986 pp. 16–21).

(4) "Some Thoughts at the Outset: Joseph Juran on Bringing TQM to Government" is an interview of the venerable Juran by Comptroller-General Charles Bowsher and two colleagues. Strong Q&A with a veteran TQM practitioner. Practical blocks to Quality culture in a large bureaucracy are discussed bluntly (see The GAO Journal Winter 1991–92 pp. 48–54).

(5) "Reinventing Government: Managing the Politics of Change" by Jonathan Walters. This may be the most aptly titled article here. It summarizes a conference sponsored by the Council for Excellence in Government and Governing. Participants included businesses, unions, government officials from all levels, and authors and experts on reinvention. Major ideas are summarized and key terms explained (see Governing December 1992 pp. 27–40).

(6) "Customer Service, Partnership, Leadership: Three Strategies that Work: Success at the State and Local Levels Point the Way for Making Federal Programs Work Better Too" by Barbara Bordelon and Elizabeth Clemmer (The GAO Journal, Winter 1990–91 pp. 36–43). Case studies of how to implement the above three concepts. Concludes that vision is more important than a step-by-step plan.

(7) "It's Simply Not Working" by Jennifer Reese (Fortune 11/19/90 pp. 179–96). Based on months of interviews with top officials, elected and appointed, this piece contains instructive case-studies and sage opinions of those who've tried to manage parts of the federal behemoth. It also carries some advice to Congress to reinvent itself—as a board of directors that sets long-range policy. And Reese cites the work of a little-known Bush Administration operation at OPM called the Federal Quality Institute—which this writer hadn't heard of either.

THE CASE FOR BURNING ALL THIS STUFF

If an analysis can be stunningly enlightening and deeply depressing all at once, here it

is: "Demosclerosis" (National Journal 9/5/92 pp. 1998-2003). All of reinvention, reform and reassertion by "citizen/owners" faces one vast syndrome—namely, "postwar democratic government's progressive loss of ability to adapt."

In a word, demosclerosis.

Jonathan Rauch writes that the accretion of pressure groups, tied to the enhancement of public programs, produces both economic and political decay. Economically, these interest groups slow the adoption of new technology. Politically, they make society ungovernable by their squabbling over scarce resources.

Rauch's landmark overview thoroughly conveys the pattern of events in stable democracies and in those that have recently undergone great upheaval (e.g. Japan and Germany). Like any good parasitic illness, the disease produces just enough contradictory symptoms to keep the doctors—whether Democrat or Republican—arguing over treatments. But the author finds the only known cures to be internal revolution or external domination with a military governor-style reordering of political society.

And if that sounds like a national stage set for a willful, confident "doctor" with simple treatments, there is this billionaire Texan who might volunteer for the post, if you ask him nicely.

WHO'S WHO?

Though many players are engaged in the Vice-President's National Performance Review, five articles by Stephen Barr for the Washington Post profile the key ones.

(1) Combining politics and policy at Wonk Central is Gore's rollerblading, baseball-loving DLCer: Bruce Reed. Barr profiles this New Democrat's professional and personal commitment to reinvention. Says Reed: "The advances in technology make it easier for the government to serve people directly, and the political failures of Washington over the last decade have made people more insistent than ever on a government that works. So we feel that we have a political opportunity and a structural opportunity that wasn't there before" (Washington Post 5/17/93 p. A19).

(2) As the father of the "Renaissance Weekend," OMB Deputy Director for Management Philip Lader will need all his networking skill to implement the Gore proposals. The article describes the background of the Drucker-quoting, Kilimanjaro-climbing Ladder, and ends with a telling statement by him "The gist of Renaissance has been to recognize the incredible transforming power of ideas and of relationships. And I would hope that this Administration might be characterized by the power of ideas—but also by the power of relationships" (WP 5/25/93 p. A17).

(3) If guru is too strong a word, then David Osborne should at least be thought of as master guide to the Gore effort (WP 5/19/93 p. A17). Co-author of the 1991 book Reinventing Government, Osborne stresses empowering employees, giving flexibility to managers, and measuring performance.

(4) Before David Osborne caught the Vice President's eye, he influenced Texas Comptroller John Sharp. Sharp is on his second audit of the Texas government; the first recommended cuts of $4.2 billion in a $30 billion budget. Reporter Barr sketches how he used secrecy, plus speed, to arrive at his plan. His methods and policies merit examination if for no other reason than Bruce Reed called the Texas audit "the best model out there for what needs to be done."

And how would "Sharp the Knife" gauge success? "This performance review will not work if it's seen as an exercise in compromise. It must take on sacred cows and bloated bureaucracies to convince everyone of its seriousness. It must do away with useless expenses and unproductive jobs. There must be a body count, a specific number of programs eliminated, and teeth on the sidewalk" (WP 2/16/93 p. A11).

(5) Back to the point man in all this: Vice President Gore was tasked to review, over six months, federal operations (WP 5/25/93 p. A8). Some of the resulting changes are expected to be enacted by presidential order; others will require legislation. What can be done, right now, is to stop underselling the political obstacles to true reinvention.

Bemoaning the hiring, by the Marshals Service, of a $40-per-lawn company to maintain houses seized in drug raids, Gore said: "In Atlanta . . . you would hire a teenager to do it for maybe $10 per lawn. Not in this government."

Gore is right to shed lawn-care at 400% of the basic rate. But digging deeper might turn up (for example) a liability factor: Consider what the Marshals Service could face if one of those lower-cost teenagers injured himself and hired a good trial lawyer.

When things routinely happen that seem irrational, there must be a strong reason—probably many. Those reasons help show why reinvention entails more than empowering frontline bureaucrats.

It may require disempowering artificial market-dominance on the part of Administration allies. (We can hope.)

Back in May, the Vice President declared: "Too many of our public systems don't work, and money alone won't fix them. Think about it: Is there anything more foolish than spending money for something that doesn't work?"

Yes. What's more foolish is thinking that questions like that one will teach you, or the public, a damn thing. Instead, try digging into which systems and people benefit from spending that appears foolish. Who worked to put it there, and who benefits by keeping it going?—DKR.

Mr. GRASSLEY. I yield the floor.

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

REINVENTING THE FEDERAL GOVERNMENT

Mr. ROTH. Mr. President, the title of a recent best selling book, "Reinventing Government," has become popular as a term synonymous with broad reform of government. As commonly used, however, it often seems to be a phrase without much meaning—other than as a generalized call for change. But properly understood, it really does speak to a particular agenda.

Today, I would like to join with the Senator from Iowa [Mr. GRASSLEY] in an effort to explain what the term "reinventing government" means, and what kinds of reforms of it implies for the Federal Government.

The fundamental theme of a reinvented government is a customer orientation combined with a focus on accountability for results. Organizations should be streamlined, and given coherent missions. Decisionmaking should be decentralized, so that programs can respond faster.

The Federal Government today is primarily process-oriented. Its focus is on following detailed procedural rules within rigidly structured programs. Managers are seldom encouraged to be innovative, or given real flexibility to manage personnel and other resources.

The first step in reinventing this was recently taken, when Congress passed my bill S. 20, the Government Performance and Results Act. All Federal agencies will be required to have performance plans with specific, measurable goals. They will then publish annual performance reports showing the actual outcomes. Managers could get greater flexibility in the use of resources by making specific commitments to better program performance. And taxpayers will for the first time be told what results they get for their money. The Clinton administration has called my legislation the foundation for much of what we seek to do as we go about the task of reinventing government.

Next, we need to reorganize and streamline Federal agencies. Areas of similar responsibility should be grouped, then reviewed with an eye toward consolidation and policy coordination. As the General Accounting Office recently pointed out, there are 125 different programs responsible for job training, spread across 14 Federal agencies. Who's in charge of what? Let's cut out the overlap and redundancy, and focus responsibility, so we know where accountability lies.

For example, the trade-related functions of the Commerce Department could be consolidated with the Office of the U.S. Trade Representative in a Department of Trade. Within that agency could be a new Bureau of Export Promotion, that brings together the U.S. and Foreign Commercial Service, the Export-Import Bank, the Overseas Private Investment Corporation, and the U.S. Trade and Development Program.

Streamlining agencies and programs means closing costly, underutilized facilities, and downsizing others. Too often Congress creates waste by mandating minimum personnel levels and prohibiting the closing of offices. These requirements should be repealed.

If government is to become customer-oriented, then managers closest to the citizens must be empowered to act quickly. Why must every decision be signed-off on by so many people? If program managers were instead held accountable for the results they achieve, they could be given more authority to be innovative and responsive.

Agencies should emphasize that citizens will be treated as valued customers, by publicly posting statements of their commitment to service. Each Citizen's Charter could combine more generalized promises of courtesy and helpfulness, with specific commitments—such as to respond to written

inquiries within 7 days, or that no wait in line shall exceed 30 minutes. Every program dealing with the public should conduct citizen satisfaction surveys, and publish the results.

Reinventing the Federal Government also means modernizing its personnel systems. Employees need strong protection from political abuse, but it should be easier for agencies to hire, fire, and promote based on performance. And our Federal pay systems should reward excellence more than longevity. Potential rewards should be large enough to provide real incentives.

Our goal should be a smaller Federal workforce, through attrition, but one better trained and better paid—with pay increases based on superior performance. Present efforts at employee evaluation are often not taken seriously. How well they do this important task must become a big part of how managers themselves are evaluated.

By empowering managers to really manage, we will need fewer of them. We should combine serious personnel and pay reform with a slimming of the managerial hierarchy.

These principles should also be applied to Federal-State relations. Federal grant programs could provide greater discretion in the use of funds, in return for more accountability for results achieved. We could award Federal aid to localities competitively—such as with funding based half on need and half on proven effectiveness—and let innovation steer the dollars to where we get the most bang for the buck.

Also, the Federal Government should reach agreement with the other levels of Government on defining the limits of each's responsibility in various areas. Then the public will know who to hold accountable for what. Now each level of Government can duck responsibility by saying, We've done all we can to solve this problem, the rest is up to the others. Then every unmet need seems to end up on the Federal Government's doorstep.

Reinventing government does not mean creating a host of new programs. It does not mean increasing taxes, or spending more than we already do. Rather, it means changing how programs operate—the incentives, the flexibility, the forms of accountability. If done right, it means better government—more responsiveness at less cost—not bigger government.

The administration appears to be looking at many of these issues through its national performance review, led by Vice President GORE. From what I have heard and read, that review seems to be asking the right kinds of questions as it examines the Federal bureaucracy. I am hopeful that this effort will result in a good foundation for real reform of how government operates. We owe the American people no less.

To help further the process of reform, I have introduced S. 15, the Reinventing Government Act. This legislation would create a bipartisan commission to recommend major reform of the structure and operations of Federal agencies. Its proposals would have to be considered by Congress, in an up-or-down vote.

Mr. President, earlier this year I met with the Vice President to suggest issues the national performance review ought to explore, and the types of reinventing government reforms needed in the Federal Government. I ask unanimous consent that a copy of a memorandum I gave him at that time be printed in the RECORD.

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

MARCH 30, 1993.

To: Vice President Al Gore
From: Senator Bill Roth
Re National Performance Review

The following are some initial ideas for where the National Performance Review should focus its attention. The real need is for comprehensive reform of the way the federal government does business. Service to the people should be the theme at every level of government. These suggestions are aimed at that kind of fundamental change. I believe that sufficiently bold and innovative actions in these areas will result in better government service at lower cost.

In other words, our goal should be a federal government that is structurally reformed to provide prompt, effective, and courteous service to the people, and to meet the challenges of the 21st Century. That means modern communications and technology must be at the core of reform.

AUDIT FOR PROGRAM WASTE

Conduct a review of Inspector General reports and General Accounting Office studies. Develop a mechanism (administrative or legislative) to force agencies to bring the satisfactory closure the items in the High Risk Status Reports, the over 2,500 open audit recommendations from GAO studies, and the actions proposed by agency IGs.

"REINVENTING GOVERNMENT"

Develop a set of principles to guide reform of the organization and operations of federal agencies and programs, followed by administrative actions and legislative proposals to implement those principles.

I. Organization. The Executive Branch should be reorganized and streamlined to reflect the needs and priorities of the 21st Century, emphasizing policy coordination and accountability.

A. Propose a comprehensive plan for reorganization of federal departments, agencies, and programs. The plan should be designed to maximize responsiveness to the public, by eliminating unnecessary duplication and inconsistency, and streamlining operations—and where appropriate, creating a new organization to handle restructured operations.

1. Begin by listing all the organizations (departments, agencies, commissions, etc.) and activities of the federal government. From groupings of similar organizations and activities, then determine which should be consolidated, eliminated, or modified. (GAO has cited as an example the $16 billion spent on job training, in 125 programs in 14 federal departments and agencies.)

2. Streamline the organization of the Executive Branch, beginning with the premise that there should be a small number of large groupings with jurisdictions based on broad themes. One approach would be to start with a design based on natural resources, human resources, commerce and trade, foreign affairs, and national security. Subgroups could still have cabinet status, where appropriate.

3. One element that could be incorporated in such a plan is S. 580, the Trade Reorganization Act.

B. As with military facilities and staffing, civilian government facility locations and staffing levels should be dictated solely by the need to provide the appropriate level of service as responsively and efficiently as possible. We should minimize the hierarchical pyramids of bureaucracy, that become mired down in the details of process, rather than focusing on service to the public.

1. Close underutilized field offices and other government facilities, and reduce unnecessary layers of bureaucracy at the central headquarters.

2. Eliminate existing requirements (often in appropriations bills) for minimum staffing levels.

II. Programs. Government programs should focus on delivering services and meeting needs in the most prompt and responsive, least costly way possible.

A. Programs and services that are unnecessary, that no longer reflect today's priorities, or that are not sufficiently effective, should be eliminated.

1. Develop an effective "sunset" mechanism that automatically ends programs unless renewed by Congress on a regular basis.

B. Competitive pressures sharpen the efficiency and responsiveness of organizations, and should be instilled in government programs.

1. Every program up for renewal under the provisions of a "sunset" law should be required to suggest alternative ways the same services might be provided (e.g., through the use of vouchers, by contracting out, through grants to State and local governments, etc.).

C. All government agencies should emphasize service, have specific goals for program performance, and be held accountable to the taxpayers for their results. Prompt, efficient, and courteous service to the customer must replace procedural concerns as the key motivation for government action.

1. This is the purpose of S. 20, the "Government Performance and Results Act", which is pending in the Senate and the House (H.R. 826). The Administration has endorsed this bill, and should make it a top legislative priority for enactment during the Administration's "first 100 days".

2. Agency procedures (such as grant application processes) should be streamlined and simplified, to reduce their time and costliness, with more authority for making decisions pushed out to managers closest to the "customers".

3. Modern telecommunications and other technology (e.g., faxes, conference calls, electronic fund transfers) should be used by agencies to bring clients and decision makers together, for improved convenience and responsiveness.

4. Opportunities should be sought to provide "one-stop" service to individuals and organizations that must, on a single issue, interact with more than one agency.

a. Ad hoc task forces could be utilized to simplify grant and other processes for State and local constituencies—with all interested agencies involved, but one specific agency designated to serve as the "one-stop" to deal with.

5. To reinforce the notion that citizens should be treated as valued customers, all agencies should develop a one-page document to be posted in any location frequented by the public, stating the agency's or program's commitment to service—that is, what level of service the citizen/customer has a right to expect. (See attachment.)

a. The statement should include specific items (e.g., to respond to written inquiries within 7 days, that no wait in line shall exceed 45 minutes).

III. Management and Personnel. Management and personnel systems should have as their highest priority serving the needs of the taxpayers, by being designed to strengthen personal accountability, maximizing responsiveness, enhancing excellence, and minimizing costs.

A. Managers should be given greater authority in the use and management of fiscal and personnel resources, so that program efficiency and effectiveness are maximized.

1. S. 20 would allow OMB to grant greater managerial flexibility, by authorizing waivers from certain administrative regulations, in return for specific commitments to greater performance. However, statutory constraints may be an even greater impediment to maximizing effective management, and this area should be thoroughly examined for reform.

2. Managers should be given more authority to hire, fire, promote, and demote personnel based on their evaluation of the employee's performance, without the long, exhaustive delays under current procedures, while maintaining appropriate civil service protections against political considerations.

B. The federal work force should be lean, with minimum levels of hierarchy, and highly motivated to perform well.

1. The work force should be significantly downsized beyond the President's stated goal—through attrition (about 125,000 civilian employees leave the Federal Government every year)—with an emphasis on reducing the number of managers needed, so that the staff-to-manager ratio (7:1) is increased.

a. Greater managerial authority (see above) would reduce the need for a large managerial bureaucracy and many layers of hierarchy.

b. Many senior level civil servants have delayed retirement until 1994, in order to maximize their "high three years" benefit formula. There will likely be a very large turnover in those ranks next year—so there is an opportunity now to plan for slimming the managerial bureaucracy before those ranks are re-filled.

c. If necessary, effective "early out" incentives should be created for the civilian work force.

d. Reductions-in-force regulations should be reformed to place greater value on job performance, and less on seniority, than is presently provided.

2. There should be a stronger link between pay and job performance, with more flexibility in the pay scale to reflect individual accomplishment.

a. Existing performance evaluation systems should be improved—so that they are more accurate, and discourage inflated ratings. One way to do this is by requiring that supervisors themselves be rated partially on how well they conduct effective employee performance evaluations.

b. Annual performance-related financial rewards should be made potentially large enough to create real incentives for good performance. This may necessitate changing from the existing, highly detailed grade/step system, to broader bands of pay categories (while guarding against inflated ratings and political favoritism).

c. The cost of greater pay for federal employees, linked to superior performance, should be off-set by savings from work force reduction. As the size of the work force drops, most of the savings should go toward deficit reduction, and some should go into a "performance incentive" fund.

C. Prudent budgeting requires information on the long-term fiscal impact of spending decisions, and on any future liability for which the government is obligated, and should encourage good management practices.

1. The budget process should be reformed so that the anticipated costs of programs are projected on a long-term basis.

2. Accrual accounting principles should be utilized in the budget wherever appropriate (e.g., to show accrued liabilities in accounts where revenues are exceeding current expenditures).

3. The government should adopt a biennial budget, in order to provide better opportunities for program oversight.

4. Agencies should have the authority to carry-over into the next fiscal year unexpended funds, in order to discourage unnecessary year-end spending.

IV. Federalism. Federalism is reinforced, and accountability strengthened, when responsibility is defined for each level of government, and when intergovernmental aid programs provide maximum flexibility to reach specified goals.

A. The federal government should reach agreement with State and local governments on which entities are responsible for addressing which issues, as suggested by Alice Rivlin in her recent book. Where responsibility is shared, the limits of each government's responsibility should be defined.

B. The hundreds of federal grant programs should be consolidated in a few block grants, with greater flexibility in the use of the funds given to the recipient governments, but with program performance made a significant factor in the grant formulas.

Mr. ROTH. Mr. President, I yield the floor and 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. GRAHAM. 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. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for up to 5 minutes.

THE DEFICIT

Mr. GRAHAM. Mr. President, the current occupant of the chair and I have been concerned about a number of items in the current discussions of budget reconciliation. One area we have particularly shared is the importance attached to achieving a $500 billion level of deficit reduction over the next 5 years. I was, therefore, particularly concerned at news accounts this morning which indicated there might be a significant erosion of that $500 billion deficit reduction over the next 5 years; in fact, an erosion of down to $483 billion.

It has been suggested the $500 billion number is arbitrary, political, and in fact should not be a significant standard by which to evaluate the success of our efforts in terms of the current consideration of the administration's economic plan. I strongly disagree with that characterization. I believe the $500 billion deficit reduction is in fact the centerpiece of our current efforts. If there is one thing the American public has asked us to do, it is to get a handle on this enormous, growing Federal debt; and to do that by beginning a systematic effort at reducing the annual rate of Federal deficit.

I believe this number, $500 billion, is a number that has real meaning. It has real meaning in terms of the essential economic theory behind the proposal we are currently considering. There is no question that taking this amount of money, $500 billion, out of the economy, either in the form of increased taxes, reduced spending, or as this bill proposes, an approximately even distribution between those two, will have an economically constrictive effect. When you take that much money out of the economy it is going to be money that will reduce what the private sector would have otherwise had available in order to stimulate economic growth.

The counterpoint, however, to that has been that we will get the benefits of a significant and sustained reduction in long-term interest rates that will more than offset the negative impact of that $500 billion of reduction from the economy that will result from the reduced spending and increased taxes.

I accept the validity of that economic theory. That economic theory also has a psychology, and that is a psychology directed to those who influence private economic decisions, from the individual family making a decision as to whether to buy a new car or a new home, to those who make macroinvestment decisions.

What is that psychology? Mr. President, I would like to quote from a recent hearing of the Senate Banking Committee of July 22 of this year, in which the Chairman of the Federal Reserve Board, Mr. Alan Greenspan, was the principal witness. Mr. Greenspan stated, and I am going to quote from several parts of his testimony before that committee, largely in response to questions from the chairmen of the committee, Senator BOND and Senator SASSER.

Mr. Greenspan stated:

A credible—underline credible—budget deficit reduction, in my judgment, is crucial to the long-term health of this economy.

Mr. Greenspan goes on by saying:

69-059 O—97 Vol. 139 (Pt. 12) 44

Even the $500 billion package does not address fully the upturn in the deficit as a percent of the gross domestic product in the latter part of the century and into the early part of the next century.

The problem that I think we have got is, while arithmetically the excess, if I may put it that way, above the growth of the tax base, is in Medicare and Medicaid, and that if one can bring those budget items into line with the growth of the GDP in nominal terms, then that will be adequate to bring the expenditure level down.

However, if reform is unable to bend this very rapidly growing share of Medicare and Medicaid, as a percent of the GDP, from growing rapidly to being flat, meaning that you don't make it and it still continues up, then I think we'll be required to address other areas of the budget at the turn of the century to make certain that the total does not rise faster than the tax base because that's an unsustainable position.

Continuing further, Mr. Greenspan stated:

Well, I would say that the markets believe that some credible budget deficit program, without specifying what the composition would be because I don't think you can tell that—the implication of veering off the standard of the $500 billion, in my judgment, is clearly one which the markets would take quite negatively.

Third, Mr. President, as Chairman Greenspan alluded to, we do not have just a 5-year issue here, we have at least a decadal issue, and that issue is illustrated in this chart of the projected annual deficit reduction.

First, under the Office of Management and Budget baseline—that is, if we do nothing—what is the situation in which we will find ourselves, and second, what will we do if we adopt the President's plan? If we do nothing, we will have essentially a flat annual deficit in the range of $300 billion for the next 4 years, and then it will begin to turn up dramatically. By the end of the century, we will be running annual deficits of over $500 billion.

Under the President's plan, we will have what I would describe as a shallow "U," deficit reductions on an annual basis will decline until the middle part of this decade, and then about 1996 and 1997 it will start to decline again, so that by the end of the century, we will have annual deficits of approximately the same level as we have today. That is what the projection is.

What that clearly says is that if we start at a level lower than the $500 billion that the President had recommended, it is going to exacerbate this shallow curve. It will cause us to lose momentum more rapidly and make the problems of the end of the decade in achieving sustainable deficit reduction that much more difficult.

It will, as Chairman Greenspan stated, put enormous pressure on our capacity to control health care costs and do so quickly. We are going to be talking about reductions in Medicare and Medicaid of upward of 10 percent a year by the middle of this decade if we are going to get enough savings from those entitlement programs in order to avoid an upturn in our annual deficits.

We are going to be facing the prospect of another round of major tax increases and spending cuts. We hope that we will be assisted out of this dilemma by an accelerated rate of economic growth.

Mr. President, I am concerned in that regard that, in fact, the level of economic growth that we are currently experiencing is not sufficient to meet the standards that the President has used as the assumptions behind his economic plan.

On page 25 of the book, "A Vision of Change for America," the administration states its economic assumptions in terms of gross domestic product growth, starting in calendar year 1992, at 2.9 percent.

According to the Department of Commerce, the actual gross domestic product growth in 1992 was 2.1 percent. The President's economic assumption for calendar year 1993 is 3.1 percent. Again, according to the Department of Commerce, the actual growth for the first quarter of 1993 was 0.7 percent and for the second quarter is 1.6 percent, dramatically below the 3.1 percent upon which the economic assumptions underlying this plan are predicated.

Mr. President, therefore, I am concerned that, even at the $500 billion deficit reduction level, we will have a challenge maintaining this line that the President has outlined. And if we start the process significantly below $500 billion, as today's press reports indicate may be under consideration, we will make our problem substantially worse.

In summary, I believe that the centerpiece of our whole effort is to develop a credible, sustained commitment to reducing the Federal budget deficit and moving toward that glory day when we will have a balanced Federal budget.

I believe that any slippage from the $500 billion number that the President has recommended will substantially undercut the basic economic theory upon which this recovery is predicated, will have a damaging effect in terms of the psychology from Main Street to Wall Street, and will make the Nation's problems, in terms of dealing with its long-term fiscal challenges, that much more difficult. We will again succumb to the temptation of avoiding today's hard decisions by passing those on to our children and our grandchildren. I hope that in August of 1993 we will not succumb to that temptation yet again.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Florida yields the floor. Who seeks recognition?

Mr. GRAHAM. 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.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now resume consideration of S. 919, the national service bill; that the cloture vote scheduled today on the Kennedy-Durenberger substitute amendment to the bill be vitiated; that the Kennedy-Durenberger amendment be agreed to; that the committee substitute, as amended, be further amendable notwithstanding the adoption of the Kennedy-Durenberger substitute; that the following be the only first-degree amendments remaining in order to the bill and that these amendments must be relevant; that they be subject to relevant second-degree amendments; that all amendments must be offered by the close of business today or they will no longer be in order; that just prior to the close of business today the committee substitute, as amended, be agreed to and the bill be read a third time; that at 9:45 a.m. on Tuesday, August 3, the Senate resume consideration of S. 919; that there be 15 minutes for debate equally divided in the usual form at that time; and that at 10 a.m. on Tuesday, August 3, the Senate proceed to the immediate consideration of H.R. 2010, the House companion, that all after the enacting clause be stricken and the text of S. 919, as amended, be inserted in lieu thereof and a vote on passage of the bill occur without any intervening action or debate; that immediately upon the conclusion of that vote the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees, and that S. 919 then be indefinitely postponed.

The list of amendments is as follows:

An amendment by Senator SPECTER regarding a cut in funding;

An amendment by Senator BROWN regarding educational benefit amounts;

An amendment by Senator GRAMM of Texas regarding political activities;

An amendment by Senator GRAMM of Texas to apply the HATCH Act;

An amendment by Senator MCCAIN regarding educational laws;

An amendment by Senator MCCONNELL regarding liability;

An amendment by Senator DOMENICI regarding reproportioning States;

An amendment by Senator KASSEBAUM that is relevant;

An amendment by Senator KENNEDY that is relevant;

An amendment by Senator DOLE regarding blue-ribbon schools;

An amendment by Senator DOLE regarding high crime areas/veterans;

An amendment by Senator DOLE regarding report by DOD;

An amendment by Senator DOLE regarding education awards;

An amendment by Senator DOLE regarding cut in funding;

An amendment by Senator CHAFEE regarding cut in funding.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Reserving the right to object, and I shall not object, I think we have a satisfactory arrangement. Let me just make the record clear, we did not have the votes to prevent cloture. We had five of our colleagues who would have voted for cloture today, and we would have been one vote short. I commend the solidarity on the other side. I wish we could have it on this side, but we did not have it on this particular issue. I still hope before they finish the debate this afternoon there can be some adjustment on funding. It might make a significant difference in the number of Republicans supporting the bill. As I understood the President in our conversation, he would like to have broad bipartisan support.

But in any event, I think this is a good resolution. It avoids a cloture vote. We do not have the postcloture situation. All of these amendments are, I think, germane and relevant. Nobody is trying to slip anything in.

I commend the majority leader for his patience, and I still hope we can work out a funding level that might be satisfactory to the distinguished Senator from Massachusetts later on today.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, if I could address the majority leader, it is my understanding that at the end of the final vote on the measure the majority leader just went through in the unanimous-consent request, H.R. 2403 would then be the pending business?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. There may be some other votes Tuesday morning.

Mr. DECONCINI. But the pending legislation——

Mr. MITCHELL. The pending business when we finish those votes would be the Treasury-Postal appropriations bill.

Mr. DECONCINI. Mr. President, I say to the majority leader, perhaps this is not the place to do it, but I wondered if we might add to that unanimous-consent request that then the pending amendment on 2403 would be the Lautenberg amendment that the Senator from Kentucky is interested in that had been cleared on that side for 1 hour of debate without a rollcall vote.

Can we have that as the pending amendment on 2403? Maybe the Republican leader—that had been cleared. We were going to do it before. We did not get to it and it never happened.

Mr. DOLE. I would be happy to approve that subject to the distinguished Senator from Missouri, if he has some objection.

Mr. DECONCINI. He had agreed. I certainly would want the Senator to clear that, but he had agreed to that.

The PRESIDING OFFICER. The pending question is the unanimous-consent request of the majority leader. Is there objection?

Mr. DECONCINI. Wait a minute, Mr. President, please. I am asking that that be added to the majority leader's unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, for clarification, I am asking that the unanimous-consent request which is before the body now offered by the majority leader, and I presume by the Republican leader, be expanded to include that upon finishing all the votes the majority leader mentioned we would return to H.R. 2403, and the pending amendment would be the Lautenberg amendment; that there would be 1 hour of debate equally divided and we would have a voice vote on that amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Arizona the majority leader may clarify his unanimous-consent request.

Mr. MITCHELL. Mr. President, I modify my request to ask that when the Senate returns to consideration of the Treasury-Postal appropriations bill, the pending business be the Lautenberg amendment with 1 hour for debate on that amendment to be equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, I will not object, I say to my friend, the majority leader, I was here under the impression we could do that this afternoon. If Senator LAUTENBERG is willing to come, we can get that out of the way and you will not have to do that next Tuesday.

Could we then under the present circumstances ask unanimous consent later if the Senator from New Jersey could come we would just do that this afternoon? He and I have both agreed that we would not ask for a rollcall vote.

Mr. MITCHELL. Mr. President, I further ask that my request be modified to provide that if the Lautenberg amendment is a first-degree amendment that it not be subject to a second-degree amendment.

The PRESIDING OFFICER. Is there objection to the modified unanimous-consent request by the majority leader? Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleague. I appreciate the usual courtesy of the Senator from Arizona to permit the bill which he is managing which has been the pending business to be set aside to permit us to complete action on this other measure. They are all important. We started this bill of course before we got to his bill. I know he is gracious.

I also thank the Republican leader for his cooperation in this matter, and both Senators from Kansas, the Republican leader and Senator KASSEBAUM.

Mr. President, pursuant to this order just having been obtained, am I correct that the Senate will now resume consideration of S. 919?

NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993

The PRESIDING OFFICER. The majority leader is correct.

The Chair will ask the clerk to report S. 919.

The assistant legislative clerk read as follows:

A bill (S. 919) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service to enhance opportunities for national service and provide national service educational awards to persons participating in such service, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

The reported amendment in the nature of a substitute as modified and amended.

AMENDMENT NO. 709

The PRESIDING OFFICER. Pursuant to the previous order, the Kennedy-Durenberger substitute amendment is agreed to.

The amendment (No. 709) was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I want to express my appreciation to the majority leader, and to the minority leader for making it possible for us to conclude this legislation no later than early Tuesday morning.

This represents important progress. I will report to the Senate some of the modifications that we have been willing to make to this legislation later this afternoon at the request of some of our Republican colleagues.

Over the last 24 hours, we have continued to address some of the areas of concern to Members of the Senate. And we will be making further modifications to the legislation. I think we have made good progress.

We welcome the opportunity to debate additional amendments this afternoon. I would just indicate to our colleagues that we intend to address these amendments as expeditiously as possible. We will debate them, not interminably but sufficiently, and then vote on them.

We plan to remain here until all these amendments are voted down, adopted or dropped.

I want to thank the leaders again for their good work which I think will focus our attention on the areas that need further addressing and will give an opportunity for this body to work its will. National service is one of the most important measures which we will consider in this Congress. Creating opportunities for service for Americans to serve their communities and their country is critical to our Nation's future.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 740

(Purpose: To provide the necessary authorization for financial assistance under subtitles C and H to title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the President or the Inspector General of the Corporation may determine to be necessary)

Mr. SPECTER. 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 Pennsylvania [Mr. SPECTER] proposes an amendment numbered 740.

Mr. SPECTER. 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:

Notwithstanding any other provision of this Act.

"(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the President or the Inspector General of the Corporation may determine to be necessary, $300,000,000 for fiscal year 1994, $500,000,000 for fiscal year 1995, and $700,000,000 for fiscal year 1996, provided that the enactment of a separate authorization for fiscal year 1996 shall be required to allow the continuation of this program as contained in this Act, *Provided, however*, That except for the $700,000,000 authorization for fiscal year 1996, the remaining language of the bill shall continue in force.

Mr. SPECTER. Mr. President, this amendment sets forth a funding schedule which is identical with that requested by the administration with one modification, that after the third year funding that there be reauthorization.

At the outset, I compliment the proponents of the bill for a very effective public relations campaign. It is plain that the votes for cloture from the Republican side of the aisle would have been present today to cut off debate.

I noted earlier that was a remarkable coincidence last Wednesday that I was mentioned in editorials in the New York Times, the Washington Post, and the Philadelphia Inquirer, that I noted perhaps in other papers my name does not appear in the editorials too often. So I thought it was a remarkable coincidence. Again today, in my hometown newspaper there is an editorial with somewhat more force, notwithstanding that it has been my view that there was a very responsible position to be articulated on this side of the aisle to try to bring down the cost of this program.

I believe that the effort should have been continued, and the amendment which I am now offering is the essence of that approach.

The Washington Post last Wednesday noted that there were some Republicans who were pursuing a fair objective in trying to lower the cost. That has been my objective. And it continues to be my objective. And I am now offering this amendment for that purpose.

I submit, Mr. President, that there has not been a filibuster, and that if you take a close look at the time spent on this bill since we turned to it a week ago Tuesday that there were less than 2 days of relatively brief Senate days consumed on this bill. We were on the bill Tuesday afternoon late after finishing a series of votes on the Hatch Act which started at 2:15. We were on the bill on Wednesday when there were amendments offered by Democrats as well as Republicans. Most of Thursday was taken up by the Senate debate on the Confederate flag issue. And then Friday, Monday, Tuesday, Wednesday of this week we were on appropriations bills, and very brief debate on Thursday, and we turn to it now in the last few minutes.

We have sought to utilize the prerogatives on this side of the aisle which would call for a 60-vote to cut off debate, technically known as cloture, before this bill could come up because of the increase in spending.

At a time, Mr. President, when the deficit is soaring out of sight and all of the editorials in the papers I have noted frequently refer to the Congress' irresponsibility on the deficit but obscure that issue when it comes to a specific bill, we have a responsibility in the Congress to be very careful about expenditures. We always have that responsibility. But it is especially true when we have a $4 trillion deficit which is strangling the country. There are a lot of generalizations about it. But when we come down to specific bills those who speak about it frequently forget their rhetoric of the past. I think that is doubly true at a time when we are considering a budget which has an enormous increase in taxation for Americans, that we ought to be very careful about expenditures which we are offering.

My own sense is that there is going to be a phenomenal backlash from the American people when they see this new tax bill. Yesterday, the Vice President of the United States had a special telephone news conference to criticize this Senator—although not as extreme as the President going to Pittsburgh in Air Force One last April during the enhancement package debate to urge Pennsylvanians to urge ARLEN SPECTER to support $19 billion in expenditures which this Senator thought were unnecessary.

But I was a little surprised that the Vice President had that news conference on the budget bill before talking to me about it, a little surprised that he would single out ARLEN SPECTER instead of perhaps Senator BOREN, who has let his displeasure be known, or the six Senators on the other side of the aisle who voted against the budget, or a series of Senators on the other side of the aisle who have stated their disinclination to support the budget. I think if we had a secret vote on the administration's budget, I do not think it would be 100–0; it might not be 99–1, but I think it would be overwhelming in opposition to the President's budget.

So if the Vice President wanted to hold a news conference, I would have thought it more appropriate for him to look at the Democrats before coming over to the Republicans, especially to a Republican who has been supportive of what the President sought on parental leave and allowing Federal workers to engage in political activities and a wide variety of other activities.

I must say, Mr. President, I raise a deep concern when people accuse me of taking orders from Senator DOLE, or from anyone. I believe that next to integrity, the highest attribute of any person, especially a Member of the U.S. Senate or the House or any legislative body or any public official, is independence. I guard my own independence zealously.

Yesterday, I had less than a minute to express a view because of the time limitation. I said that when Senator DOLE invites the majority leader to invoke cloture, Senator DOLE does not speak for me. He does not control my votes—I do, and I cast my votes as I see fit.

Afterward, I said to him, "BOB, I hope you do not mind my expressing independence on controlling my own vote."

He said, "No, ARLEN, I understand it perfectly."

So that when my colleague from Pennsylvania was quoted in the Philadelphia Daily News yesterday as saying that he could see why ARLEN SPECTER goes along with the Republicans as a matter of party discipline, I have to say that I find that surprising, given my record of independence in the U.S. Senate. I told that to my colleague from Pennsylvania—what is that new NBC program?—"Eye to Eye." I told him that yesterday, and I told him

that I had some concern about his floor statement.

I quote from the RECORD yesterday when my colleague from Pennsylvania, Senator WOFFORD, said:

I am no Moses. I know Moses, and I am no Moses. And the distinguished Republican leader, Senator DOLE is no Pharaoh, but there are lots of Members on the other side of the aisle who want to vote for this bill. So I appeal to the distinguished Republican leader to let his people go. Let those friends of this bill have the chance, along with other Members of this body, to work their will in the days to come.

Well, I take a little exception to that reference and that context for reasons which I will not amplify at this time. But I take exception to that. I will amplify the concern I have about people who say, at least as it applies to this Senator, that I am taking orders and following party discipline. You can take a look at 12½ years of votes from this Senator and find that it is not true. It is provable as a matter of basic arithmetic.

With that few minutes of preface, Mr. President, let me talk about the specifics of this amendment. This amendment provides for an authorization for national service legislation for $300 million for the first year, fiscal year 1994, $500 million for the second year, and $700 million for fiscal year 1996, which is the third year, provided that the enactment of a separate authorization for fiscal year 1996 shall be required to allow the continuation of this program as provided in this act, provided, however, that except for the $700 million authorization for fiscal year 1996, remaining language of the bill shall continue in force.

Mr. President, I favor that funding, although many on this side of the aisle do not. I favor that funding because I believe in national service legislation and have long believed in it and have long supported it.

I was a supporter of the Peace Corps years ago and served on the National Advisory Council of the Peace Corps, and on the national service activities of ACTION. When I saw this legislation, I agreed to be an original cosponsor. I have been criticized for opposing final passage of this bill while I have been an original cosponsor because of some alleged change of position, which is not true.

I have not changed my position. But in the floor statement that I submitted when this bill was introduced, I specified that I was concerned about cost, and I did not give a blank check to this bill. This bill started out in the President's budget in excess of $10 billion. I think it was a figure pulled right out of the clouds. And then there was a second figure for in excess of $4 billion. I think that was pulled out of some other clouds. Finally, the figure came down to $1.5 billion over 3 years.

I do not think there is any merit in having the figure come down to that amount because we do not really have the basis even for that amount. I think that the Republicans can take some credit for not having an astronomical figure in place. But I believe that that figure has to be justified, especially at a time of a $4 trillion national deficit and a time when we are about to soak all Americans with more taxes.

I have had extensive discussions with Eli Segal who has been shepherding this bill through for the White House, and I compliment him on his activities. After some consideration, I was agreeable, and am agreeable, to $300 million in the first year and $500 million in the second year. But I do not want a commitment for the third year until we see how the program is working. When I talked to Mr. Segal, he and I had a meeting of the minds—and I do not seek to bind him, but I think this is a fair representation—that the program ought to be proved to be valuable before it went forward to the third year, and that he and the members of the other side of the aisle, the Democrats, want to provide for in the appropriations process.

This is a little technical—and maybe somebody is watching on C–SPAN 2 today. But let me explain in a brief period of time for those who are watching on C–SPAN 2.

Forgive this hat, but I recently had surgery.

Let me take a moment and explain what the difference is between authorization and appropriation. When there are 56 Democrats, the Democrats need at least 4 Republicans to support a motion to cut off debate. So before you can have the bill go forward and authorize spending, you have to have 60 votes.

That is why I was asked and I did agree to cosponsor, but not with a blank check. But if it comes to appropriations it only takes 51 votes.

The difference is that the appropriations will come over in a large bill where there will be funding for veterans, funding for food stamps, many programs which cannot insist on 60 votes, although, technically, Republicans can do that. But it is unrealistic. You simply cannot insist on 60 votes or oppose cutting off debate on an appropriations bill.

But on an authorization bill you can, and that has been the area of controversy here with 56 Democrats lined up in a phalanx, and until yesterday, not more than 3 Republicans would vote to cut off debate.

So I said to Mr. Segal, I would like an authorization before we have the third-year commitment for $700 million. He said to me, that is no authorization at all for 3 years. We have had an argument as to whether you have an authorization if you do not have a commitment to the dollar sum.

I submit you do, Mr. President. As exhibit A, and as proof, I hold up a 339-page amendment which has an enormous number of provisions containing the authorization for this bill. It sets up the corporation, sets up the board of directors, sets up the program, sets up many provisions as to how this bill is going to work.

People on C–SPAN 2 do not ever need an argument to show that there is more than a single line as to the authorized figure, but I do not want to put in an authorized figure until we see how the program is going to work.

I think $300 million for the first year, and $500 million for the second year, is sufficient until we can evaluate the program. But we cannot evaluate the program to give this side of the aisle, the Republicans, a say, and we do not have much of a say. The only say we have is whether no more than three of us will join their 56. If out of 44 Republican Senators, one-eleventh, or 4, join their 56, the remaining 40 Republican Senators do not have anything to say, which is all right. That is the rule of the Senate. It requires 60 votes to bring the matter to the floor.

But I, at least, want to have something to say, along with my colleagues on this side of the aisle, and if there are not 4 out of 44 who want to put up $700 million for year three of this program, then it ought not to be done. I would say that is a pretty good balance for the Democrats to need only 4 out of 44. If they cannot convince 4 Republicans to join them, they do not have much of a bill.

But if we do not have that authorization required, we are not going to have any say at all because it runs right through on the appropriations bill in the manner I have described.

Senator DOLE thought he had a deal with the White House. Senator DOLE said he is prepared to vote for this bill if you have the authorization that is provided. Senator DOLE thinks we might get as many as 20 Republicans to vote for this bill, which will be a ringing endorsement of the bill and also a ringing endorsement that we are paying some attention to cost.

But we are past that point now, Mr. President, and Senator DOLE outlined the flurry of editorials around the country had some substantial impact. I spent the morning, not in capitulating, but in writing a reply letter to the editor.

I have been a cosponsor, and I am going to support this bill in the form of $1.5 billion. But I think it is unrealistic to even hold out any hope that there will not be 51 or a majority of those voting Friday afternoon at 1:44—who knows how many will vote—a majority of Democrats who will vote against this measure because if it is not lockstep, it is pretty close. I do not want to impugn any of my colleagues on the other side of the aisle, but I do not think there is any realistic likelihood that this amendment is going to be

adopted, because it takes only a majority, and there was an overwhelming majority on the other side of the aisle, unless their airplanes have all left. Some change in the numbers of those may impress them. But there is a very narrow difference.

I do now, and have always agreed to $300 million for the first year, $500 million for the second year, and $700 million for the third year, providing they can get authorization.

As my colleague from Massachusetts said yesterday, this is going to separate those who really are loyal—I do not know quite what that means—those who are not divisive, and those who are not obstructionist, from those who really mean it and want this bill.

I would paraphrase that rhetorical flourish by saying this amendment will separate those who are concerned about the deficit, and those who are concerned about a tax increase.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I do not intend to take a great deal of time, but I think that there are some important matters that ought to be mentioned.

I know the Senator from Pennsylvania is eminently aware of the legislative process of authorizations. We have some programs that effectively do not need continuing authorizations. The GI bill, for example, had an indefinite authorization of appropriations.

We had the Voting Rights Act for 15 years, and then we reextended it not long ago. In 1982, we extended it for some 15 years.

Most legislation, however is authorized for 3 or 5 years—usually for 5 years.

As a matter of fact, when this legislation was first introduced it was for a 5-year authorization. And the Senator from Pennsylvania was an original cosponsor of that legislation. It says right here: Introduced in the Senate, by Mr. KENNEDY, * * * Mr. SPECTER. In that particular measure on page 501, it says, "there are authorized to be appropriated * * * the figures $434 million for fiscal year 1994, and such sums as may be necessary for each fiscal year, 1995 through 1998."

Therefore, the authorization is a 5-year authorization. It specifies first year authorizations in the legislation, and then "such sums" after that. Generally that language is used to give the Congress an opportunity to evaluate the program, see how deserving it is. Congress sets figures after hearings, and after debate in the House, in the Senate and in conference.

I do not doubt the Senator that there are deficit problems. But, whatever the deficit was when the Senator cosponsored in May and the deficit is now, we do have the additional kinds of resources to address.

But the point about this is that this is the way that we proceed as legislators in this body.

So we have asked for the authorization for a 3-year period. It is now a $1.5 billion program that has been dramatically reduced in size and includes a variety of different amendments offered by the Republicans.

Now the effect of the Senator's amendment is very clear. It specifies that the enactment of a separate authorization for fiscal year 1996 shall be required to continue this program.

It is very simple what this amendment does. It creates a 2-year authorization. The Senator may want a 2-year authorization. I respect him for that position. Others might want that. But that is effectively what we are doing if we accept that amendment.

The best balanced judgment of those who have been supporting this measure is that it will take some time to recruit the young individuals who are going to be involved in community service, probably 3, 4, 5 months. We have included in this legislation a variety of the different studies and reviews which have been advocated by Senator KASSEBAUM and other Members. These studies evaluate the level of the stipend; whether the educational benefit is needed, and, what the program's impact is on military recruitment.

Those studies will be done in 2 years so we can evaluate the program. The principal sponsors of those amendments understand that it is going to take 2 years for a real review.

We believe in tough evaluations of these programs. But, Mr. President, the bottom line is that the amendment of the Senator from Pennsylvania is a 2-year authorization which we cannot support.

Finally, I would just say, Mr. President, that in inquiring of legislative counsel—that is the counsel of the Senate that helps Members of this body draft legislation—they point out that 2-year authorizations are very rare. They could not remember offhand one instance. They said they would be glad to research it.

But the fact of the matter is Republicans and Democrats are interested in a fair evaluation. And we think we have it in our bill.

Our program is a 3-year authorization. In the third year, those who support the program have to come back to the Congress and demonstrate to Congress that there is sufficient support for an appropriation up to, but not exceeding, $700 million; $700 million is the ceiling.

As we know, Mr. President, when Senate appropriations bills come back from the Appropriations Committee, any Member can move to strike that appropriation, reduce it, or move to reallocate that money to go to another purpose. All they have to do is get 51 Members.

The procedure which is outlined now by the Senator from Pennsylvania could well require 60 Members. Why shouldn't 51 Members of this body be enough? The same rules apply over in the House.

But why, on this particular program of national and communty service are we undermining the likelihood of having an effective program?

I think, Mr. President, that this program deserves the kind of scrutiny that we have built in, in terms of how money is expended, and in coming back to Congress for each year's funding.

So, Mr. President, I hope that we will not accept this amendment. We have debated the issue of 2-year authorization for some part of last week.

I hope the amendment will not be accepted.

Mr. SPECTER addressed the Chair.

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

Mr. SPECTER. Mr. President, by way of very brief rebuttal, I submit that this 339-page bill, all of which will be authorized for 3 years except one line as to the $700 million, is ample proof that it is a 3-year authorization and not a 2-year authorization.

But—but—if it is a 2-year authorization, and if that is different from the practice of the Senate, I think it is time we deviated from the practice.

When you have a $4 trillion deficit and you are about to raise taxes for all Americans, you put in a new procedure to make sure that the money you spend is well spent.

Now, when the Senator from Massachusetts talks about the appropriations bill coming over and any Member can move to strike and it requires 51 votes to carry the dollar sign, that is true.

I said earlier—and I shall not belabor the point—it is no problem for the Democrats to get a majority. The only way the Republicans have a voice is when you take their total of 56 votes and have to add some Republican votes. And when you talk about the number 60, that is the number which is required for new programs under the Budget Act. The Congress established that supermajority of 60 for new programs and expenditures after we came to the Budget Act of 1990 to be sure that those programs were really well founded. Otherwise, they could not be enacted unless you had 60 votes.

When the Senator from Massachusetts says that the Senator from Pennsylvania understands the legislative process, I think I do. And that legislative process is that when you put a big bill in, there are lots of changes. These 339 pages were changed from what was put in before. The period of authorizations changed; the amount of money that is called for has changed. It goes through committee, goes through amendments, goes through the floor.

There is no question but what the RECORD shows, from my statement, that I offered no blank check and had reservations to the amount of money. I support the principles and I support the concept and I support a fair trial, but I do not support a commitment for the last $700 million until it is proved. And if this program is proved, let them find 4 votes among the 44 on this side of the aisle. That is not asking too much.

I yield the floor.

Mr. KENNEDY addressed the Chair.

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

Mr. KENNEDY. I would just point out, Mr. President, first of all, the Senator has waved around the bill as introduced with 339 pages. I am holding a 571-page bill—the bill as reported out of committee. The Senator from Pennsylvania cosponsored both. The one he is holding up is effectively the same as the bill as reported with the changes that have been outlined in the course of the debate. The levels of new funds going into the program never increased between when he cosponsored the bill and now. In fact, they have decreased.

Now, this legislation was introduced in May. It is now the end of July. At that time, the Senator was prepared for a 5-year authorization and such sums, with the potential of billions more in spending than in the bill we now consider.

Now we all, in the last 2 months, get wiser. But I do think that the Senator's amendment for the reasons explained is the most effective way to review a program.

Under the amendment of the Senator from Pennsylvania, we would barely have even 1 year to test the program. It will take 4 to 5 months to recruit the young people that will be working in community service. And then we would soon thereafter have to evaluate the program and come back to Congress for funding.

Under our program, you will at least have two cycles of individuals who will be involved in the program.

We are glad to have the harsh and critical review of this program, because we believe that it will prove itself.

In many instances, some of the best programs have been in the State of Pennsylvania. In many instances, some of those who have benefited from similar programs, who have testified before our committee, have utilized those kinds of programs in the State.

So we are hopeful, with the dramatic reduction in the authorization from what the President initially wanted, and with the existing review procedures available to the Senate, that a 3-year authorization will best ensure a fair evaluation of the program.

Mr. DOLE addressed the Chair.

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

Mr. DOLE. Mr. President, I do not want to prolong the debate, but I want to point out again that this is the amendment that we thought we had an agreement on a couple of days ago. This is the amendment that would have brought along, I think, half of the Republicans—maybe more—on this side of the aisle.

I do not want to embarrass anybody, but we did believe that the White House said, "OK, this is acceptable." We were prepared to, obviously, vote for the bill at this level, because I would point out, as I have in the past, the American people are not demanding new spending programs. They are looking for us to keep them as lean and tight as possible, at least until we find out whether or not they are going to work.

So, we can say $1.5 billion is not too much money, or $2 billion—the President asked for $10.8 billion. We are a long way from that. We made a lot of progress. For that I want to thank my colleague from Kansas, Senator KASSEBAUM, for helping reduce the cost and convincing our colleagues on the other side the costs should come down. But this is an opportunity. If we want to make this a broad, bipartisan bill, adoption of this amendment will do it. I do not think it will cause undue heartburn because at one time the White House had signed off on this amendment. It may have been misunderstood. But in any event I think it is a good amendment, one that should be supported by a majority of Members on each side of the aisle.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY. Mr. President, I believe the White House can speak for itself. A presentation of the offer was made. When the White House investigated the specific language they were given a different impression. I do not infer any bad faith in that exchange. The real question now before the Senate is what kind of program we are going to have. That is the issue. I hope the amendment will be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Pennsylvania. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS], the Senator from Georgia [Mr. NUNN], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that the Senator from Maine [Mr. COHEN], is absent due to a death in the family.

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

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

The result was announced, yeas 41, nays 52, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—41

Bennett	Exon	McCain
Bond	Faircloth	McConnell
Brown	Gorton	Murkowski
Bumpers	Grassley	Nickles
Burns	Gregg	Packwood
Chafee	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Danforth	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	

NAYS—52

Akaka	Feinstein	Mikulski
Baucus	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Pell
Bradley	Inouye	Reid
Breaux	Johnston	Riegle
Bryan	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Campbell	Kerry	Sarbanes
Conrad	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Lieberman	Wofford
Durenberger	Mathews	
Feingold	Metzenbaum	

NOT VOTING—7

Cohen	Jeffords	Wallop
Gramm	Nunn	
Hollings	Pryor	

So the amendment (No. 740) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Madam President, there are probably 14, 15 amendments. I believe that probably six of these are in the process of being worked through and acceptable, and we are continuing to work with the interested parties. Senator GLENN is working with Senator GRAMM on two Gramm amendments, which apply to political activities and the Hatch Act. Senator MCCAIN has an amendment on education awards; we are working with the Senator and his staff; Senator DOLE has three amendments; we are in the process now of working through those. So we are making real progress.

We hope we could address others offered. We will not try to prolong the debate and discussion but move toward early resolution. Those Senators who wish to offer amendments, if they will

come to the well, we will be glad to talk to them and try to work the process through for as long as needed.

Mrs. KASSEBAUM. Madam President, yes, we are trying to work through the amendments. I think Senator MCCONNELL will soon be ready to offer his amendment. I do not know if anyone else is on the floor at this point who is ready to offer their amendment. So I would suggest the absence of a quorum——

Mr. CHAFEE. Madam President, I am on the list for an amendment, and I think it is pretty clear here that no amendment is going to pass that is opposed by the distinguished floor leader of the bill. I think that is pretty clear.

What my amendment was going to do was to take the total spending, which is now at $1.5 billion, to $1.4 billion. In other words, I do not want to put words in the mouth of the negotiators, but that had been a figure that had been talked about. I would offer the amendment if I thought it was going to be accepted.

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

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

The Senator from Arizona is recognized.

AMENDMENT NO. 741

(Purpose: To limit the amount of a national service educational award)

Mr. MCCAIN. Mr. President, I have an amendment at the desk 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 Arizona [Mr. MCCAIN], for himself and Mr. NICKLES, proposes an amendment numbered 741.

Mr. MCCAIN. 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:

Beginning on page 77, strike line 20 and all that follows through page 78, line 7 and insert the following:

"(a) AMOUNTS GENERALLY.—Expect as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of service in an approved national service position shall receive a national service education award having a value, for each of not more than 2 of such term of service, equal to 90 percent of—

"(1) one-half of the aggregate minimum basic educational assistance allowance calculated under sections 3013(d)(1) and 3015(b)(1) of title 38, United States Code (as in effect on July 28, 1993), for a member of the Armed Forces who is entitled to such an allowance under section 3011 of such title and whose initial obligation period of active duty in two year; less

"(2) one-half of the aggregate basic contribution required to be made by the member under section 3011(b) of such title (as in effect on July 28, 1993).

Mr. MCCAIN. Mr. President, I rise to offer an amendment to the National and Community Service Trust Act. This amendment, which is identical to one accepted in the House, would simply set the national service plan education benefit at 90 percent of the benefit under the GI bill.

Like Congressmen STUMP and MONTGOMERY, who authored a similar amendment in the House to the one I am proposing today, the level of the education benefit in the bill before us as compared with that available under the GI bill will undermine the military's ability to attract our Nation's best and brightest.

The GI bill is one of the most critical recruiting tools available to the armed services. Unless its benefit levels are more attractive than other Federal education benefits, military recruitment is going to be harmed.

The United States will continue to maintain one of the world's largest standing military forces, even though it will be somewhat smaller. Highly qualified young men and women will continue to be needed in the All-Volunteer Force at the same time the pool of 18- to 25-year-olds is shrinking. The competition for the best and the brightest of them is fierce, because employers, educational institutions and the armed services all target the same select group. Congress will define the relative attractiveness of the proposed new competitor, the national service plan education benefit.

The educational benefits stack up basically as follows:

The GI bill provides $4,800 per year for 3 years with a mandatory service commitment of 3 years. The service member is required to put in $1,200 of his or her own money from military pay during the first year of service, and the $1,200 is not refundable if the benefit is not used. Further, refusal to complete the service commitment is a crime under the Uniform Code of Military Justice.

The national service plan would provide $5,000 per year for up to 2 years with no mandatory service commitment and no individual contribution of money. Unlike the GI bill, the national service plan education benefit could be used to pay off old education loans.

The best and the brightest will not have any trouble figuring out which is the best deal. For many of them, the education benefit will be the deciding factor. Unless the benefit level of the national service program is adjusted, it will siphon off many of the recruits our armed services would have attracted. The all-volunteer military has achieved the highest quality armed forces in history, as seen in the brilliant victory of Operation Desert Storm. This quality could be quickly lost and would take years and enormous cost to regain.

Military service warrants a higher education benefit than civilian service because of its unique dangers, hardships, separation from home and family, restrictions on civil liberties, and mandatory time-in-service commitment. To be fair, the level of education benefits should be commensurate with the nature of the service performed. This amendment, which is identical to that adopted in the House, would simply make the educational benefit under this bill 90 percent that of the GI bill.

I understand that the distinguished Senator from Massachusetts and my colleague, the distinguished Senator from Kansas, have agreed to this amendment. I appreciate that.

I think it is fair. At the same time I do not believe that it erodes the benefits that are an integral and essential part of the bill before us.

I thank my colleagues for their consideration of this amendment.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is an area of public policy I know the Senator from Arizona has been very interested in. We had some discussion and debate on this earlier in the consideration of the legislation.

I want to thank him for his working through this process on the amendment. I will urge that the Senate accept this amendment.

We have worked with the Senator from Arizona and the architect of the GI education benefits, Congressman MONTGOMERY. He fashioned the legislation introduced in the House and had it accepted in the House. I offered it in the Armed Services Committee. It is working exceedingly well.

It has offered another major path of support for education for the young people in this country, those associated with the military. We obviously want to continue that program and strengthen it.

It was never the intention that this measure should have any advantage over that educational program.

I think the language that has been worked out and negotiated by the Senator from Arizona reaches that result.

I urge the Senate to accept the amendment.

Mr. ROCKEFELLER. Mr. President, as chairman of the Senate Veterans' Affairs Committee and as a cosponsor of the national service legislation, I am delighted that an agreement was reached on the issue of the national service educational award and the Montgomery GI bill benefits.

National service is an American concept, not a partisan political issue.

I want to warmly commend Chairman KENNEDY and Senator WOFFORD for working so hard over the last few days to find a bipartisan approach to move this vital legislation forward. They have worked hard and accepted a number of amendments offered by the distinguished ranking member Senator KASSEBAUM. Such efforts have strengthened the legislation.

I was heartened that the need for a cloture vote was vitiated today, and I appreciate the Members on the other side of the aisle who originally cosponsored the bill, and those who voted for it in the Labor Committee markup.

With that same spirit, an agreement was reached regarding veterans benefits that follows the lead of two distinguish House Members who are noted veterans advocates: Congressman STUMP, ranking member of the House Veterans' Affairs Committee, and Chairman SONNY MONTGOMERY. Through their leadership just 2 days ago in the House, Congressman STUMP's amendment linked the national service educational award to 90 percent of the Montgomery GI bill. This agreement passed by an overwhelming vote of 419 to 6.

Senator MCCAIN's similar amendment was accepted today in a spirit of bipartisanship.

But I also want to stress that by focusing only on money—in the Montgomery GI bill or the national service educational award—we are undervaluing both programs and the young people who volunteer for our Armed Forces or the new National Service Program.

The appeal of both military service and public service is much deeper than monetary benefits of a paycheck or stipend or even grants for college. It is a personal commitment of patriotism and eagerness to serve one's country.

I deeply admire every young person who volunteers for either cause. I firmly believe each should be rewarded with respect and educational benefits for their future.

But in my heart, I know that it is more than the promise of the GI bill that drives young men and women to enlist. The facts bear this out. The Montgomery GI bill awards for 3 years of services are proportionally smaller than those for 2 years, yet most recruits sign up for 3 years anyway.

Still, neither the GI bill nor the educational award should be considered financial bribes to get young people to enlist or volunteer. I believe it is a higher calling and dedication that motivates people to military or public service—both distinguished professions.

As a young man, I had the privilege to serve in VISTA. This opportunity took me to Emmons, WV, and completely changed the course of my life. It was a profoundly moving experience for me, and I am eager to pass this legislation so that more young Americans will have a similar chance to become involved in national service—it will change their lives, and change our country.

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

Mr. MCCAIN. Mr. President, I thank the Senator from Massachusetts and the Senator from Kansas for their many long hours and days spent on this issue. We have had our disagreements. The fact is both of them have done an outstanding job in advocating their beliefs in this legislation.

Mr. President, I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor.

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

Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 741) was agreed to.

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

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. 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. MCCONNELL. 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. 742

(Purpose: To clarify the limits on the liability of volunteers)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk 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 Kentucky [Mr. MCCONNELL], for himself and Mr. DECONCINI, proposes an amendment numbered 742.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill, add the following (and conform the table of contents of the bill accordingly):

TITLE VI—LIMITATION ON LIABILITY OF VOLUNTEERS

SEC. 601. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) within certain States, the willingness of volunteers to offer their services has been increasingly deterred by a perception that they thereby put personal assets at risk in the event of liability actions against the organization they serve;

(2) as a result of this perception, many public and private not-for-profit organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, local governments, foundations, and other civic programs, have been adversely affected through the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) the efforts of not-for-profit organizations, local government, States, and the Federal Government to promote voluntarism, and community and national service, are adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities; and

(5) because Federal funds are expended on useful and cost-effective social service programs which depend heavily on volunteer participation, protection of voluntarism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal encouragement of State reform.

(b) PURPOSE.—The purposes of this title are to promote programs of community and national service, to promote the interests of social service program beneficiaries and taxpayers, and to sustain the availability of programs and not-for-profit organizations and governmental entities which depend on volunteer contributions, by encouraging reasonable reform of laws to provide protection from personal financial liability to volunteers serving with not-for-profit organizations and governmental entities for actions undertaken in good faith on behalf of such organizations.

SEC. 602. NO PREEMPTION OF STATE TORT LAW.

Nothing in this title shall be construed to preempt the laws of any State governing tort liability actions.

SEC. 603. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—To be eligible to receive full financial assistance under subtitle C of title I of the National and Community Service Act of 1990, and except as provided in subsections (b), (c), and (d), a State shall provide by law that any volunteer of a not-for-profit organization or governmental entity shall incur no personal financial liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization or entity if—

(1) such individual was acting in good faith and within the scope of such individual's official functions and duties with the organization or entity and such functions and duties are directly connected to the administration of a program described in section 122(a); and

(2) such damage or injury was not caused by willful and wanton misconduct by such individual; and

(3) the volunteer was not operating a motor vehicle and was not operating a vessel, aircraft, or other vehicle for which a pilot's license is required.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS WITH RESPECT TO ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any not-for-profit organization or any governmental

entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION.—Nothing in this section shall be construed to affect the liability of any not-for-profit organization or governmental entity with respect to injury caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—A State may impose one or more of the following conditions on and exceptions to the granting of liability protection to any volunteer of an organization or entity required by subsection (a):

(1) The organization or entity must adhere to risk management procedures, including mandatory training of volunteers.

(2) The organization or entity shall be liable for the acts or omissions of its volunteers to the same extent as an employer is liable, under the laws of that State, for the acts or omissions of its employees.

(3) The protection from liability does not apply in the case of a suit brought by an appropriate officer of a State or local government to enforce a Federal, State, or local law.

(4) The protection from liability shall apply only if the organization or entity provides a financially secure source of recovery for individuals who suffer injury as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "volunteer' means an individual performing services for a not-for-profit organization or a governmental entity who does not receive compensation, or any other thing of value in lieu of compensation, for such services (other than reimbursement for expenses actually incurred or honoraria not to exceed $300 per year for government service), and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer;

(2) the term "not-for-profit organization" means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(3) the term "damage or injury" includes physical, nonphysical, economic, and noneconomic damage; and

(4) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 605. EFFECT OF STATE FAILURE TO LIMIT LIABILITY.

If on a date determined by the Corporation for National and Community Service that is not later than October 1, 1995, a State fails to have in effect (and to certify in its application under section 130 of the National Community Service Act of 1990 that the State has in effect) a limitation on liability that satisfies the requirements of this title, the allotment for such State under section 129(a) of such Act shall be reduced by 5 percent, and the Corporation shall use the amount of the reduction to make a reallotment to other States that have in effect (and so certify) such limitation.

Mr. MCCONNELL. Mr. President, I would just say at the outset, it is not my desire to delay the Senate this afternoon.

I have had some discussions with the Senator from Massachusetts about the amendment that I have offered. I am willing to enter into a very short time agreement, if that would help him. Otherwise, I will be happy to proceed with a description of my amendment.

Mr. KENNEDY. Mr. President, how much time would the Senator suggest?

Mr. MCCONNELL. I would say to my friend from Massachusetts, just 5 or 10 minutes to explain what the amendment is about.

Mr. KENNEDY. Half an hour, evenly divided?

Mr. MCCONNELL. That would be fine.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be a half-hour time limitation on the amendment of the Senator from Kentucky, to be evenly divided.

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

Mr. MCCONNELL. Mr. President, what this amendment seeks to do is to provide a shield from liability for unpaid volunteers of nonprofit or Government entities for any act or omission in the course of performing official functions and duties directly connected to the administration of a program under the national service bill.

I am told an amendment essentially like this was adopted on the national service bill in the House of Representatives by a rather large margin. This amendment has the following stipulations:

To be shielded from liability, the volunteer must have, first, been acting in good faith; second, been within the scope of their official functions and duties; third, their official functions and duties must be directly connected to the administration of a program under the national service bill—it is very narrowly crafted—fourth, the damage or injury in that particular instance was not caused by willful or wanton misconduct on the part of the volunteer; and, fifth, the volunteer was not operating a motor vehicle and was not operating a vessel, aircraft, or other vehicle for which a pilot's license is required.

So this is not broad tort reform. This is a good samaritan provision, narrowly crafted to provide protection for those who will become involved under this national service bill.

In terms of incentives, States that did not adopt this volunteer liability protection would lose 5 percent of their Federal liability allotment and that would go to States who are certified to be in compliance.

There are currently about 30 States that have laws similar to this amendment. I repeat: This amendment, which is essentially a bill, I might say, introduced by Senator DECONCINI, who deserves full credit for the initial idea—this amendment, essentially as-is, was attached to the national service bill in the House.

There are also 119 organizations that support the DeConcini bill, which is essentially this amendment. I will not read the entire list, but I will read a few of them:

The American Association of Blood Banks, the American Diabetes Association, the American Heart Association, the American Red Cross, Big Brothers/Big Sisters of America, the Boys Club of America, the Girl Scout Council of the USA, the National Easter Seal Society, the National PTA, the Salvation Army, Save the Children.

In fact, there are 119 organizations that endorse this approach, providing some protection for volunteers.

Mr. President, I ask unanimous consent this list of 119 organizations be printed in the RECORD at this point.

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

SOME OF THE ORGANIZATIONS SUPPORTING VOLUNTEER PROTECTION

Air Force Association
American Arts Alliance
American Association for Marriage and Family Therapy
American Association of Blood Banks
American Association of Manufactures
American Association of Museums
American Association of Nurserymen
American Association of University Women
American Camping Association
American Chemical Society
American College of Cardiology
American Concrete Pipe Association
American Council on Alcoholism
American Council on Education
American Dental Association
American Dental Hygienists Association
American Diabetes Association
American Heart Association
American Horse Council
American Hospital Association
American Legislative Exchange Council
American Medical Association
American Motorcycle Association
American Optometric Association
American Recreation Coalition
American Red Cross
American Society for Personnel Administrators
American Society of Association Executives
American Society of Mechanical Engineers
American Speech-Language-Hearing Association
American Symphony Orchestra League
American Tort Reform Association
American Traffic Safety Services Association
Associated Locksmiths of America
Association of Governing Boards of Universities and Colleges
Association of School Business Officials
Association of Volunteer Administrators
Association of Wall and Ceiling Industries
B'nai B'rith International
Big Brothers/Big Sisters of America
Boy's Club of America
California Credit Union League
Center for Nonprofit Corporations

Community Associations Institute
Council of Community Blood Centers
Credit Union National Association
Electronics Industries Association
Federation of Parents for a Drug Free Youth
General Aviation Manufactures Association
General Federation of Womens Clubs
Girl Scout Council, USA
Greater Washington Society of Association Executives
Helicopter Association International
Home Builders Institute
Home Builders Institute Board of Trustees
Human Ecology Action League, Inc.
Independent Sector
International Association of Fire Chiefs
International Racquet Sports Association
Iowa Grain & Feed Association
Lincoln National Sales Corporation
Literacy Volunteers of New York State
Little League
Lupus Foundation of America
Metro Health Services Federal Credit Union
Montana Congress of PTA
National Association of Federal Credit Unions
National Association of Manufacturers
National Association of Professional Engineers
National Association of Towns and Townships
National Association of Water Companies
National Association of Wholesale Distributors
National Club Association
National Coalition of Arts and Therapy Associations
National Council of Community Hospitals
National Council of Jewish Women
National Crime Prevention Council
National Easter Seal Society
National Electrical Contractors Association
National Employee Services and Recreation Association
National Federation of Independent Businesses
National LP Gas Association
National Military Family Association
National PTA
National Safety Council
Nation School Volunteer Program
National Society of Fund Raising Executives
National Society of Professional Engineers
National VOLUNTEER Center
National Youth Sports Coaches Association
Navy League
Neighbor for Neighbor, Inc.
Omaha Police Federal Credit Union
Prison Fellow Ministries
Road Runners Club of America
Safeway Foods
Salvation Army
Save the Children
Sheet Metal & Air Conditioning Contractors
Silver Bow Volunteer Fireman's Council
Sister Cities International
Society of American Florists
Society of Automotive Engineers
Society of Incentive Travel Executives
The American Council on Alcoholism
The American Occupational Therapy Association
The Auxiliary to the American Optometric Association
The Cleveland Association for the Blind
The Federation of State Humanities Councils
The Junior League of Great Falls
The National Multiple Sclerosis Society
The National Parent-Teacher Association
United States Farm Bureau Federation
United Way
Volunteer Trustees of Not-for-profit Hospitals
Volunteer: The National Center
Volunteers for Outdoor Colorado
Water Environment Federation
Water Pollution Control Federation
Whitefish County Water & Sewer District
Women in Executive Service
YMCA
Young Women's Christian Association

Mr. McCONNELL. Mr. President, while the Senate debates whether to pay people for national service, millions of Americans interested in engaging in truly voluntary national service must contend with the very real threat of lawsuits and expensive liability insurance premiums. Many Americans opt not to engage in volunteer activities because they cannot afford the premiums or they are afraid of being financially wiped out through liability lawsuits.

Trial lawyer lobbyists and their skills—so-called consumer activists—would have people believe there are not enough lawsuits in this country. The American people know better. The fact is, the ravenous lawsuit industry causes all Americans to fear that they will be hit with a lawsuit. Guilty or innocent, any lawsuit target can be financially destroyed just trying to fend off the packs of contingency-fee lawyers. Often, the only escape is to pay "lawyer-mail"—in other words, settle out of court.

To guard against this, people understandably load up on liability insurance—you might call it catastrophic lawsuit insurance. If that is not available or affordable, they simply avoid doing anything which could expose them to liability; for example, volunteering to coach a Little League team, or volunteering as a paramedic at the local fire department.

Thus, while we are here debating an expensive bill to encourage national service, our rampant litigation system is simultaneously discouraging national service by making it too risky to volunteer for your community.

The message that millions of would-be volunteers are getting from our legal system is this: Serve and be sued. As the old saying goes, no good deed will go unpunished. If you help your community out of the goodness of your heart, it could cost you a lawsuit. The "Thousand Points of Light" have been replaced by a thousand points of liability.

To alleviate the liability threat to volunteers who would like to participate in programs sponsored by the national service bill, my amendment would establish what I have called a Good Samaritan rule. This provision is very similar to the Volunteer Protection Act, which has been championed over the years by Senator DECONCINI.

It is not a new idea. A hearing was held on the proposal in the 100th Congress. And it is not particularly long—just seven pages. Moreover, the amendment is even narrower in scope than the original bill.

The truth is that this amendment is not everything I would like it to be. I would prefer to go much further to protect volunteers and charitable groups from our civil justice system, which has run amok. However, this is a fair and limited measure, which would promote the ideal of national service advanced by the underlying bill.

Let me briefly point out that this amendment is quite different from the approach I personally have taken in the past to the liability issue. It does not preempt State tort law, as my proposals have in the past. Rather, it provides a small incentive to reduce volunteer liability, by withholding 5 percent of a noncomplying State's allotment under this bill, if they choose not to adopt a volunteer protection law. Also, my amendment would distribute those funds to States that do adopt a volunteer protection law.

Specifically, to avoid this 5 percent withholding, this amendment would require that a State:

provide by law that any volunteer of a not-for-profit organization or governmental entity shall incur no personal financial liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization or entity if—

(1) such individual was acting in good faith and within the scope of such individual's official functions and duties with the organization;

(2) such damage or injury was not caused by willful and wanton misconduct by such individual; and

(3) the volunteer was not operating a motor vehicle and was not operating a vessel, aircraft or other vehicle for which a pilot's license is required.

Mr. President, 30 States have already enacted volunteer liability statutes consistent with this amendment.

The amendment also gives States latitude in stipulating certain conditions before immunity from liability is granted. States could require that the organization for which the volunteer is operating:

First, adhere to risk management procedures, including mandatory training of volunteers;

Second, be liable for the acts or omissions of its volunteers to the same extent as an employer is liable, under the laws of that State, for the acts or omissions of its employees;

Third, provide a "financially secure source of recovery" for individuals who suffer injury as a result of actions taken by a volunteer on behalf of the organization or entity.

Finally, a State could determine that the protection would not apply in the case of a suit brought by an officer of a State or local government to enforce a Federal, State, or local law.

Mr. President, that basically is the crux of the amendment that I have offered. I had hoped it might be accepted. I have heard in the past when I have offered similar amendments that we have not had hearings. In fact, we have had lots of hearings, I believe, on this or similar subjects, for tort reform over the years.

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

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. MCCONNELL. I retain the remainder of my time and yield the floor.

Mr. BIDEN. Mr. President, is time being controlled?

The PRESIDING OFFICER. Yes; the Senator from Massachusetts controls the time.

Mr. KENNEDY. Mr. President, I yield such time as the Senator may require.

Mr. BIDEN. Mr. President, I think the concern raised by my friend from Kentucky is a real one. We do not want to have volunteers in national service under this legislation having to go out and purchase more liability insurance when they are already making a sacrifice to go and do this.

But I think there may be a better way to deal with his legitimate concern and that is, instead of essentially wiping out any ability for an aggrieved person, badly injured, to recover under the law because there is this hold harmless provision essentially being suggested here, that we should treat volunteers—and I ask the chairman of the committee and the manager of the bill to consider this possibility—that is, we treat the volunteers under the national service legislation like we do people in VISTA, like we do those in other federally sponsored volunteer programs that are not as broad as this, but nonetheless operate under the same principle.

As I understand it—and this amendment has caught me by surprise—this is a matter that I believe should come before the Judiciary Committee. But it seems to me, if my memory serves me correctly, that the VISTA volunteers, for example, are covered under the Federal Tort Claims Act which does two things, which, as I understand from the Senator's comments, he intends to do:

One, it does not discourage voluntarism because the volunteers, if they were negligent under the law, not willfully negligent—notwithstanding the fact that I operate in good faith and I push the wrong button on a piece of power machinery that I am operating as a volunteer, and cause someone to lose their leg or lose their arm, it still could be I am negligent. Not willful; I do not willfully intend to cut that person's leg off or cause the loss of their arm or their life. But it seems to me there still should be minimum standards of negligence that the victim should be protected against.

The way we have done it in the past, Mr. President, to meet the legitimate concerns of the Senator from Kentucky of not discouraging volunteers from having to go out and purchase insurance on their own, is we have put them under the Federal Tort Claims Act, which essentially does the following: It says, all right, if the volunteer in VISTA is negligent and someone suffers serious damage, that person suffering the damage can bring suit if they can prove in court that there was negligence. And under the common law tort standard of negligence and the State standard of negligence in that particular State, if in fact the person was negligent, they should recover for their medical bills and any damages they suffer.

But in this case, it is not against the individual volunteer. It is paid for by, in effect, the hiring agency. In this case, it would be the Federal Government.

And so it seems to me there is a way, if the managers of the bill will consider it—I would like to offer a second-degree amendment, and I would like to send the second-degree amendment to the desk and ask for its immediate consideration. I ask, when it gets to the desk, if the clerk will read it in full. It is very short.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Parliamentary inquiry. Would it take unanimous consent for this under the UC agreement?

The PRESIDING OFFICER. I could not hear the Senator from Kentucky.

Mr. MCCONNELL. Parliamentary inquiry. Would it take unanimous consent for the second-degree amendment to be offered?

The PRESIDING OFFICER. The second-degree amendment can be offered when all time is used.

Mr. BIDEN. If the Senator will yield, I withhold sending the amendment. It is not my purpose—if I can have my only copy back so I can read it, at the appropriate time I will hopefully offer it. I apologize for causing anyone any difficulty here.

The amendment I, at some point, propose being considered would read as follows:

> Individuals participating in programs receiving funding under this act shall be covered by the provisions of the Federal Tort Claims Act to the same extent as participants in other federally funded service programs.

In other words, Mr. President, all I would like to suggest is that it seems to me that on the broader exemption, which is essentially exempting not only the individual but the Government and everyone from any liability unless it is willful or as long as it is done in good faith—that is, the act causing the injury—that is a pretty broad exemption. It may be the Senator is right that it is necessary.

My inclination is it is not necessary, but it may be. I will commit to the Senator that I will hold hearings in the Judiciary Committee. We have not held any specific hearings on this specific issue relating to this, to the best of my knowledge, in a long time, if we have ever. I do not doubt that he said that at some point the Judiciary Committee had done it, or someone had done it. It may have been the Commerce Committee when they considered tort reform. I do not recall it occurring in my committee. It may have.

I will commit to him we will focus specifically on the particulars of his amendment and hold a hearing to that effect.

In the meantime, though, it seems to me that it would be prudent to take at least one part of the Senator's concern, and that is the discouraging potential impact of a volunteer being required to have personal insurance in order to be able to work to feel free from any suit that may draw out of a negligent act on their part.

And so, Mr. President, I ask the managers of the bill if they will, A, consider accepting at the appropriate point the amendment of the Senator from Delaware, and B, whether or not the Senator from Kentucky then would be willing to withhold his amendment on the commitment we hold hearings on his amendment in the committee.

The PRESIDING OFFICER. If the Senator from Kentucky will withhold so the Chair can inform the Senator from Delaware and the Senator from Kentucky, I did not complete my statement.

When all time is used or yielded back, the second-degree amendment is in order. There would be no time, however, to debate the amendment. You would have to go directly to a vote.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from Kentucky for bringing focus to this particular issue. As the Chair has pointed out, when all the time expires—there are only a few minutes left—the amendment of the Senator from Delaware would be appropriate. I hope that we will accept the amendment of the Senator from Delaware, particularly with his commitment that he will conduct further hearings on this whole subject matter.

But as the result of the acceptance of the amendment of the Senator from Delaware, the coverage for all these volunteers will be identical to the kind of coverage that exists for all the service programs. I think that is important that we do that, and I think the Senator from Kentucky has been helpful in ensuring that we will do that.

I hope, Mr. President, when all the time has expired, that the Senator from Delaware will offer his amendment and then I hope it will be accepted. I think that will be an important

protection, both for the volunteers and the voluntary agencies.

How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls approximately 7½ minutes. The Senator from Kentucky, about 5½ minutes.

The PRESIDING OFFICER. Who now yields time?

Mr. MCCONNELL. Mr. President, I am going to yield most of my remaining time to my friend from Arizona, who is the original author of this proposal and the cosponsor of this amendment.

First, let me say in response to the observations of the Senator from Massachusetts and the Senator from Delaware, essentially this same amendment was adopted 2 days ago in the House of Representatives on this very bill by a vote of 358 to 69. So it would be my intention at the appropriate time to move to table the second-degree amendment that will be offered by the chairman of the Judiciary Committee.

This is not a revolutionary proposal. We have had hearings on these kinds of subjects over the years ad nauseam. I think we know what this does. The House of Representatives approved of this amendment overwhelmingly. I hope the Senate will, as well.

How much time do I have remaining?

The PRESIDING OFFICER. Four minutes. Who yields time? The Senator from Kentucky has the floor.

Mr. MCCONNELL. I am going to yield the remainder of my time to the Senator from Arizona.

Mr. BIDEN. On Senator KENNEDY's time——

Mr. KENNEDY. I yield the remaining time to the Senator from Delaware.

Mr. BIDEN. I do not want to interfere with the statement of the Senator, but I think it is particularly pertinent to ask a question, on my time, of the Senator from Kentucky.

As I understand it, the amendment that the House passed requires the States institute a measure to ensure proper risk management procedure and that the version of this amendment that passed the House contained that requirement.

Will the Senator accept the exact same language that the House has?

Mr. MCCONNELL. I say to my friend from Delaware—again, I am assuming I am on his time.

Mr. BIDEN. Yes.

Mr. MCCONNELL. That the volunteer organizations who are the principal beneficiaries of this amendment overwhelmingly do not like, I think, what was referred to as the Bryant attachment to the House bill. The groups for whom this amendment would be helpful overwhelmingly disapprove of that, so I think I would not be in a position to accept that.

Mr. BIDEN. Mr. President, continuing on my time, I would like to point out then, notwithstanding the representation that this is essentially what the House passed, this is not essentially what the House passed.

What is being offered, although meritorious, "ain't" what the House did. If we want to make it what the House did, let us make it what the House did or let us point out that it is not what the House did, and what the House did is not relevant to this point. They believe it is important to add a provision that the States be required to institute measures to ensure proper risk management procedures. That is the fundamental difference in the two amendments.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, it is in most ways similar to what the House did 2 days ago. The Senator from Delaware is correct; the so-called Bryant weakening amendments were adopted.

The reason I am unwilling to accept those amendments is because the 119 organizations who support the DeConcini bill think that that guts it.

So I think that would not be a step in the right direction.

Mr. President, I yield the remainder of my time to the distinguished Senator from Arizona.

Mr. DECONCINI. I thank my friend from Kentucky, Mr. MCCONNELL. I thank him for offering this amendment. I support it wholeheartedly, with the greatest respect to the chairman of the Judiciary Committee, I have worked for a couple of years trying to get this legislation on the floor in a proper manner. It is no fault of anybody in particular because this is a busy body and there are a lot of things going on. But this amendment is absolutely necessary.

This amendment says—it is slightly different than the House—and I am going to read it:

> Liability Protection for Volunteers. To be eligible to receive full financial assistance under subtitle C of title I of the National Community Service Act of 1990, and except as provided in subsections (b), (c), and (d), a State shall provide by law that any volunteer of a not-for-profit organization or governmental entity shall incur no personal financial liability for a tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization or entity.

And then there are some exceptions: The individual must have been acting in good faith and not in wanton, malicious misconduct. And the volunteer was not operating a motor vehicle or an aircraft, et cetera, under the influence.

Then it lists all the additional things that the State may require, but not mandating them. The Senator from Kentucky is correct; we do not need to mandate all of those to provide what we need to do.

This amendment is very similar to the Volunteer Protection Act of 1993 which I introduced earlier this year. The amendment requires States to provide protection from tort litigation to volunteers who donate their time under the National Service Act.

For a number of years now I have been convinced of the need to protect volunteers from possible tort litigation while they donate their time. Volunteers have always been an integral part of American society.

There are over 250 national volunteer organizations which contribute many hours of community service. Without their contribution, many communities' needs would not be met because of the cost. In 1987, alone, for example, 80 million volunteers contributed 19.5 billion hours of their time, equivalent to $150 billion in public employee salaries.

In Los Angeles, 740 reserve officers in the Los Angeles Police Department saved the city and county between $6 million and $11 million a year by donating their time.

What is necessary here is that we give some protection to volunteers. In the case of the amendment before us, that is what is so important. We are going to reward volunteers. Certainly they should not be subject to a tort litigation when they have not acted in a grossly negligent manner.

The reality is that these valuable human resources are decreasing at an alarming rate because of the fear of litigation, which could rob them of their personal assets.

A 1991 Gallup Poll of volunteer organizations at the national, State, and local level revealed that over 60 percent of those polled were concerned about such litigation.

And a 1988 Gallup Poll showed that one out of every seven nonprofit agencies had eliminated one or more of their valuable programs because of their exposure to lawsuits. Sixteen percent of volunteer board members surveyed reported withholding their services to an organization out of fear of liability. They are no longer willing to take that liability, and you cannot blame them. We are supposed to be a country of volunteers, and we are. But if they are open to this kind of tort liability, it has to change.

This amendment would require States to adopt laws granting volunteers, acting in good faith and within the scope of their duties as volunteers under the National Service Act, immunity from civil liability. Those who have been injured would continue to have recourse against the organization for financial redress. At the same time, individual volunteers would remain accountable for harmful acts done in a willful or wanton manner.

Those States that fail to enact volunteer protection legislation within 2

years after the effective date of the National Service Act, would see a 5-percent decrease in their allotment of funds under the National Service Act.

A similar amendment sponsored by Representative PORTER was adopted during consideration of national service legislation in the House of Representatives.

Thirty to thirty-five States provide some statutory protection for volunteers. This amendment would require the 15 to 20 States with no protection to enact legislation providing limited liability for volunteers.

I urge my colleagues to accept this amendment to insure the active participation of volunteers and volunteer organizations in national service.

Mr. BIDEN. Mr. President, how much time is in control of the Senator from Delaware?

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired. The Senator from Delaware has 5 minutes 45 seconds.

Mr. BIDEN. Mr. President, this is a very important subject. I would like to ask my friend from Arizona—and as we say in this body, he is my friend—would the concern of the Senator about discouraging voluntarism in this particular piece of legislation not be met by covering all the volunteers under the national service legislation the same way we cover the VISTA volunteers, not like we cover—because we do not have the authority federally at this point to cover the Boy Scouts and the 90 other organizations or whatever that were named. But would it not, for purposes of this legislation, meet his concern that they be covered under the Federal Torts Claims Act, which means that the volunteer is personally exempted from liability? Would not that meet that requirement?

Mr. DECONCINI. If I can respond to the Senator——

Mr. BIDEN. Please.

Mr. DECONCINI. The fact is, in answer to the Senator's question, that the effort of the amendment by the Senator from Kentucky is to be broader than that.

Mr. BIDEN. I understand that.

Mr. DECONCINI. And nobody is trying to skirt that.

Mr. BIDEN. I understand that.

Mr. DECONCINI. The purpose of this is to get that extended so the States must grant that immunity from liability.

Mr. BIDEN. The Senator always answers my questions. The truth of the matter is, his immediate concern as it relates to these particular people we are about to pass a law to encourage to volunteer, they would be covered if we put them under the Federal Torts Claims Act. So that no volunteer under the National Service Program would say, I would have volunteered under the National Service Program but I am not going to now because I may be subject to liability. We would be able to answer and say, no, the law says, the Federal law says you are exempted personally from liability because you are covered like VISTA volunteers under the Federal Torts Claims Act.

Now, conversely, my son, for example, who is with a Jesuit volunteer corps, spending a year running an emergency service shelter on the west coast, would not be covered. We have to work that out.

Mr. DECONCINI. We want to cover that.

Mr. BIDEN. We want to cover that.

Mr. DECONCINI. And this would do that.

Mr. BIDEN. My point is this. This is a relatively contentious amendment. Why not take care of all of the people who will be covered under this bill, exempt them from personal liability, and I give my friend my personal assurance that the Judiciary Committee will hold hearings on extending the purview, not of the Torts Claims Act but the purview of exemption from liability along the lines that the Senator from Arizona has been suggesting for some time, to other endeavors that are not federally funded programs, because all that is before us today is the hopefully thousands of young people and not so young people who will take advantage of this legislation to volunteer to better the health and public welfare of the people of this Nation.

Let us take care of them now and then move on to determine whether we extend it beyond that. That obviously, I understand, is more of a rhetorical question than a question. I know the Senator wants it beyond that. But I think by his own acknowledgement his concern about individuals who will be covered by this legislation would be met if we put them under the Federal Torts Claims Act.

Mr. MCCONNELL. Will the Senator yield for a quick question?

Mr. BIDEN. Sure, I will.

Mr. MCCONNELL. As I understand the Biden second-degree amendment, which will be offered at the appropriate time——

Mr. BIDEN. Yes.

Mr. MCCONNELL. Only those people receiving a stipend or payment under the national service bill would be covered, not the unpaid volunteers. Is that correct?

Mr. BIDEN. The answer to that question is correct, which is the overwhelming bulk of all the people who will fall under this act.

I reserve the remainder of my time, Mr. President, and yield the floor. 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. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, since I walked on the floor and was greeted with the opportunity to defend this amendment without any notice, I was unaware of the unanimous-consent agreement and that I may have taken time under the agreement. I have been informed by able staff that in order for me to put in a quorum call I have to ask unanimous consent that a quorum call be placed without its use going against the time of the Senator from Delaware. I so ask unanimous consent.

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

Mr. BIDEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, it is my understanding that there is 1 minute under the control of the Senator from Delaware. If that is true, I yield it to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, this whole matter—and I believe people do not realize it, but it is an insurance company relief bill. Every homeowners' policy contains a comprehensive liability provision that gives insurance coverage. Every tenant and lessor policy, where people are renting and have insurance to cover their personal property and their furniture, practically in every instance, has comprehensive liability coverage.

Every insurance policy that companies, including nonprofit organizations, have on comprehensive liability covers volunteer acts. If you act as a volunteer and you act negligently, there is insurance coverage. So the people that benefit from this relief bill are the insurance companies.

I think people should realize what is going on here.

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

All time has expired.

Mr. BIDEN. Mr. President, is it appropriate at this moment for the Senator from Delaware to send his second-degree amendment?

The PRESIDING OFFICER. It is.

AMENDMENT NO. 743 TO AMENDMENT NO. 742

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 743 to amendment numbered 742.

In lieu of the matter proposed to be inserted; insert the following:

Individuals participating in programs receiving funding under this Act shall be covered by the provisions of the Federal Tort Claims Act to the same extent as participants in other federally funded service programs.

Mr. MCCONNELL. Mr. President, I move to table the Biden second-degree 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. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Senator from Massachusetts.

Mr. KENNEDY. Could I inquire of the Senator? For the convenience of the Senate, if it is agreeable to the Senator, I understand Senator BROWN has an amendment, it is agreeable for a very short time limit, and then we can vote on all of these amendments together.

Mr. MCCONNELL. Senator KASSEBAUM suggested that to me earlier. I am happy to accommodate the Senator.

Mr. KENNEDY. I appreciate that.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Massachusetts has entered a unanimous-consent request that the vote on this motion to table will be withheld, and we will have that vote following the debate on the Brown amendment, which will soon come; that both of those votes will occur at the same time. Is there objection?

Mrs. KASSEBAUM. Reserving the right to object, I will not, if I may just for a moment, before the Senator from Colorado starts his debate, it might be useful before Senators come over to vote to have some idea of what is still outstanding. On my calculation, I know of no other amendment that will require a vote beyond the Senator from Kentucky, the Senator from Delaware, and the Senator from Colorado. Have all other amendments been agreed to?

Mr. KENNEDY. I believe we have been in contact with those who have amendments that have been agreed to under the agreement of the majority leader. We made very substantial progress. At the time of vote, I will give a full report. But at least at this point, we do not anticipate that there will be a requirement for other rollcall votes. That is at least our initial representation. We will give a more precise one at the time that we have the vote.

Mrs. KASSEBAUM. I have no objection.

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

AMENDMENT NO. 722

(Purpose: To modify the amount of the national service educational benefit)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado [Mr. BROWN], for Mr. COHEN, for himself and Mr. BROWN, proposes an amendment numbered 722.

Mr. BROWN. 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:

Beginning on page 77, strike line 20 and all that follows through page 78, line 7, and insert the following:

"(a) AMOUNT GENERALLY.—

"(1) FULL-TIME SERVICE.—Except as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of full-term service as provided in section 139(b)(1) in an approved national service position shall receive, for each of not more than 2 of such terms of service, a national service educational award between $1,500 and $5,000, depending on the expected family contribution for a student, calculated in accordance with part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) as if the participant were a student at the time of such calculation.

"(2) PART-TIME SERVICE.—Except as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of part-time service as provided in section 139(b)(2) in an approved national service position shall receive, for each of not more than 2 of such terms of service, a national service educational award between $750 and $2,500, depending on the expected family contribution for a student, calculated in accordance with part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) as if the participant were a student at the time of such calculation.

Mr. BROWN. Mr. President, I ask unanimous consent that the debate on this amendment be limited to total of 8 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

Mr. President, this is an important amendment. I am not interested in delaying the Senate. I think this involves educational issues. We have the chairman of the Education Committee and others who want to speak briefly. If the Senator wanted to make it a half-hour, I believe we can do it in less.

Mr. BROWN. I say to my friend that whatever time the Senator suggests, I am happy to abide by. The suggestion of a unanimous consent——

Mr. KENNEDY. Fine. I ask unanimous consent for a half-hour evenly divided, and we will be glad to yield back time if we can.

The PRESIDING OFFICER. Is there objection?

Senator KENNEDY has suggested a half-hour of debate on this.

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent further that no second-degree amendments be in order.

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

• Mr. COHEN. Mr. President, this is an amendment that would reduce the total cost of the national service bill while ensuring that available education benefits go to those most in need.

The compromise bill offered by Senators KENNEDY and DURENBERGER would provide $4,725 to full-time national service participants and $2,500 to part-time national service participants, whether pauper or millionaire. My amendment would set the educational award provided to full-time national service participants at a minimum of $1,500 and a maximum of $4,725 for each term of service and would set the award provided to part-time national service participants at a minimum of $750 and a maximum of $2,500. The actual award amount an individual would receive would vary depending on the participant's expected family contribution as calculated in accordance with the Higher Education Act of 1965.

This amendment represents a balanced compromise between the $1,500 educational award amount contained in Senator KASSEBAUM'S bill, which I and 37 of my colleagues supported, and the $4,725 amount for full-time participants just passed this body and the $2,500 amount for part-time participants contained in Senator KENNEDY'S bill, on which we will soon vote. The amendment would not only provide a minimum level of educational benefits to all participants in the new national service program, thus providing them with a means to finance an education, but would prevent the Federal Government from unnecessarily allotting our Nation's limited education financial assistance to high-income individuals.

The expected family contribution level used to calculate the award is not a new formula that I have devised for this amendment. Rather, it is the formula used to determine financial need for other federally supported education programs—the Federal Pell Grant Program, subsidized Federal Stafford Loan Program, and the campus-based programs, such as the Federal Supplemental Educational Opportunity Grants [FSEOG], Federal Perkins Loans, and Federal Work-Study. Although the calculation of expected family contribution level is not a perfect measure, it is the best one that is now available. It takes into account the independence of students from their families and the income and benefit levels of students and parents, if a student is dependent.

While I understand the concerns of my colleagues who do not want national service participants who work side-by-side to be paid differently, I disagree with the contention that participants receiving different amounts in education grants is a problem. Under the bill before us, and under my amendment, every participant in the new national service program would receive a living allowance and, if needed,

health and child care benefits. Thus, participants would receive equal pay for equal work.

My amendment would only allow for differences in educational award amounts. This is not a unique situation. Under the current Federal financial aid system, for example, recipients receive different levels of Federal aid depending on their financial need. Thus, at colleges and universities throughout this country, students who receive full tuition live, study, and work side-by-side with students who receive no Federal aid whatsoever.

I also believe that the concept of national service participants receiving the same educational benefit amount, regardless of family income, is irresponsible to our taxpaying citizens. Particularly in these pressing times, our current fiscal situation demands that the Federal Government spend its money wisely. Clearly, it would be ideal if this country could afford to fully support all individuals who want post secondary education or job training. Unfortunately, this is not the situation in which we find ourselves today. Therefore, providing educational benefits to people who clearly have the means to finance their own education is not a responsible position. Any money that the Federal Government targets for financial aid should be targeted to those most in need—ideally those individuals who would be unable to receive a postsecondary education without financial assistance. My amendment would be a small step toward equalizing the opportunities for individuals of all income levels and not give high-income individuals an award that will give them further advantage over low-income citizens.

In sum, my amendment represents a well-balanced compromise between one aspect of the national service proposals that has been presented to the Senate. By varying the educational award amount based on expected family contribution, I believe that my amendment would reduce the amount of Federal dollars committed to this costly national service plan. My amendment would also provide a minimum level of educational benefits to all participants in the new national service program and a maximum to those individuals who need it most. I urge my colleagues to support this amendment. I think it represents both wise and responsible public policy.●

Mr. BROWN. Mr. President, this amendment is straightforward and simple. I think all Members are aware that the compensation to participants in this program involves a variety of factors.

One, of course, is the living allowance that has been discussed and debated.

The second is a health insurance that has been debated and discussed.

Third would be child care, if that is appropriate, for the participants.

A fourth area of compensation for those who participate in this program is in the area of an educational award. I say compensation. Perhaps it ought to be phrased simply an educational award. It is in addition to the other three levels of compensation. The current bill now is set at $4,725.

Mr. President, I call the attention of the Senate to the fact that in all other educational grants, the programs that affect this country that have been adopted over the years by not only our Education Committee but the body as a whole, they have included a calculation involving expected family contribution. And, put simply, what this Senate and Congress have done, along with the concurrence of the President, is said that educational grants and awards will be given on the basis of need. If you are a millionaire and do not need it, you get less than if you do need it.

What we have done is tried to tailor the benefits that we allocate in the educational areas to those who need it. There are those who think that policy is wrong. There are others that think it is right and that it makes scarce dollars go further.

I believe this bill should be consistent with other Federal policy. To embark on a different course for educational grants in this measure than what we do in every other program, I think is a mistake. If we want to reexamine that policy, perhaps we should. But to say we are going to give, in the educational grant in this bill, the same amount to millionaires as for the poor makes no sense at all.

What we are about in this Chamber right now, at a point in our history where the budget deficit is staggering, is to try and see if we cannot make the best use of Federal dollars and of the funds that we make available. I believe that ought to apply to this bill as in every other bill. We ought to target our money so it reaches the areas where it is most needed. That is what this amendment does. It simply says we are going to take the expected family contribution formula and apply it to this educational grant.

There is one exception to that. The Cohen-Brown amendment sets minimums and maximums. Under the amendment, it would set a minimum level for full-time applying participants for $1,500. The maximum would be the maximum allowed now, $4,725. If you are a part-time national service participant, it would set the minimum level at $750 and a maximum at $2,500.

The message of this amendment is simple and basic: We are going to target the education grants present in this bill. We are going to use exactly the same formula used in all of the other programs we talked about.

What are they? These are the same formulas used in the Pell grant, with the exception of the minimums; the same as the FSEOG, the Federal supplemental educational opportunity grants, Federal Perkins loans, and Federal Work Study Program, and the Stafford Loan Program.

I believe there is no justifiable excuse for charging the taxpayers the extra money that this bill does. I believe there is no justifiable excuse to give grants and awards to millionaires where it is not needed. Ultimately, it shortchanges those who would like to participate in this program and, yet, there is not enough money left for them. As we debate this bill, the size of the bill has been one of the focal points. The need to target our funds is preeminent, I think, in other areas also.

If you want to target this money and make it go as far as you can, setting this needs test for the educational awards will ultimately allow us to have more young people have this experience and more young people go through this experience for the same total dollar cost.

If your preference is to give the same award to millionaires, or children of millionaires, that you give to the poor, then you want to oppose this amendment.

Mr. President, I think this is a wise amendment, drafted and prepared by Senator COHEN. I think it makes the money go farther, and I think it will help the taxpayers in the long run. Most importantly, I think it says we are going to be consistent in the way we make educational grants and awards.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I would like to inquire of the Senator, does the Senator support this same concept for those that are in the military? We just accepted the McCain amendment. Would you means-test educational benefits of a private or a sergeant in the military?

Mr. BROWN. I think if you develop the same program——

Mr. KENNEDY. We already have it.

Mr. BROWN. I will answer the question if the Senator gives me a chance.

If you develop a similar program in the military, designed to be used as a training program where somebody earns educational benefits, I think that is fine. If you are talking about an educational benefit earned as part of being in the military service, I would not. I think they are two separate and distinct purposes.

The educational program in the military is designed to be part of the compensation package you get for going into the military. The educational benefit here is designed and related to a program not related to a long-term service or career. Nobody is suggesting that you would stay in this program for a lifetime or a career. This is one of the benefits given in addition to the training. I see the two programs as different, with different purposes.

Mr. KENNEDY. Mr. President, given the limited time, I do not wish to debate the issue.

This program is already means tested. Any young person that gets a $5,000 grant, even if he is Donald Trump's son, pays taxes on that educational award. If they are paying at a 30-percent rate or 35-percent rate, they lose some of the benefit. That is already a form of a means test. And it is already in the legislation.

We have other targeted programs. The Pell grant program and the Stafford program are targeted to the poorest children in this country. What we are trying to do is open the door a little bit to middle-income families. What is wrong with the sons and daughters of working class families that wish to serve, receiving a year of minimum wage, and a $5,000 reward for their good citizenship? This may make the difference in opening up educational opportunity to them.

It seems to me, Mr. President, that those are the individuals who can benefit. The Senator's amendment does nothing about moving funds to the Pell grant programs or other needy programs for students. All it does is cut this program. It will cut the program for sons and daughters of working-class Americans who are trying to do something for their community. That is what it does.

If you accept the amendment of the Senator from Colorado, you are denying these working-class Americans the opportunity to serve.

I yield 5 minutes to the Senator from Connecticut.

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

Mr. DODD. Madam President, I thank our colleague for yielding.

I think a distinction needs to be drawn here. The Senator from Colorado has talked about the Pell grants, student loans, supplemental work programs, Perkins loans, and the like. Those are fundamentally educational assistance programs.

The National Community Service Act is not an educational program. There is a fundamental difference here.

It provides an educational benefit, and the beneficiaries of national service, hopefully, will be those who need the service the most.

But as to those who are being asked to serve, we are not trying to set up a differentiation. We are trying to draw everyone into this, regardless of income, regardless of geography, regardless of ethnicity and religion to reflect the diversity of our country.

When I joined the Peace Corps, they did not say they were going to take those only who came from certain income categories or certain parts of the country. My family came from relative affluence. I applied for the Peace Corps.

Today there are Peace Corps volunteers, as a result of actions by this body, who received assistance and receive waivers in terms of payback on student loans.

We did not apply a means test in all that. We said if you served our country we want to provide a reward for you for doing so.

That is what we are trying to duplicate here. We are not making a distinction but rather asking people to be a part of the program and then to provide a benefit.

The point that the Senator from Massachusetts made is a very worthwhile one. We do not apply a means test to the people who served our country in the military. We want our military to reflect the diversity of our country.

So when we go out and recruit volunteers and ask them to come in, we should not discriminate on the basis of their parents' wealth or where they are from, or any other basis. If they come in and want to go on in school, they qualify for GI benefits—that is the parallel, not the Pell grant, not the supplemental educational programs, but the military service.

If we started to apply that test here, the next thing we know, we will have someone get up and say you should only get GI benefits based on some sort of means test. I do not think we want that to happen.

We want our military to reflect the diversity of our society. We want this program, as well, to reflect the diversity of our society.

If we adopt the amendment by the Senator from Colorado, you destroy that fundamental essence of this program.

With all due respect, Madam President, this is an amendment that should not be accepted. If it is, it changes the whole nature of this program entirely and fundamentally. This is not a casual amendment. This goes to the very heart of what this program ought to be.

So I urge this amendment be rejected and reserve the remainder of the time of the Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I urge all of us to oppose this amendment. The educational benefit for national service should be viewed the same way that we do a merit scholarship. It is the reward for meritorious service, service that is well performed and successfully completed.

To means test the program would, in my view, discourage a large number of students from taking part in national service. That is what we do not want to do. Our intent—what we are striving to do is to instill in as many individuals as possible the desire to undertake national service and hope that desire will continue with them through their lives. The participants in national service are to be as diverse as America itself. As the Senator from Connecticut ably said, we should seek diversity. We should stay away from provisions like this Suggestion that would have exactly the opposite effect.

I am afraid the adoption of a means test will jeopardize the breadth of participation that is critical to the success of this program.

It is for that reason that I, for one, will oppose its adoption.

The PRESIDING OFFICER. Who yields time?

The Senator from Colorado.

Mr. BROWN. Madam President, I yield myself 1 minute.

Madam President, we heard an eloquent defense of giving to the wealthy.

Let me simply go through what the facts are here. This program, as I understand it, is not a means test program to qualify for. Everyone qualifies. The implication that you somehow have a means test qualification when you enter the program is not as I understand the bill.

Second, it is far from hurting the poor. What the amendment does is say if you do not need the money, you get a minimum rather than maximum benefit.

The implication is clear and distinct. This will deny the extra funds to the children of millionaires and those who can afford it and it will make what funds are left go further.

I might simply say that if my dear friends on the other side think that making our money go further and using the expected family contribution formula is so bad, they ought to look at the other programs where it has been applied.

Last, with the argument that this is not an educational program, I am puzzled as to why it would come out of the committee that handles educational matters and being talked as educational matter and billed as an educational effort with regards to it.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts controls 6 minutes 44 seconds; the Senator from Colorado controls 8 minutes 37 seconds.

Mr. KENNEDY. I yield 4 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. WOFFORD. Madam President, the Senator from Colorado said his amendment is simple and basic.

I would add it is wrong. It turns this idea upside down, and it cuts the heart out of it.

69-059 O—97 Vol. 139 (Pt. 12) 45

I think the heart out of military service would have been cut when I was in the Army Air Corps if at the end of that service when we came to the GI bill we would get into some complicated formula of means testing.

The heart of what President Kennedy said "ask not what you can do for your country" and go to the Peace Corps would have been cut out if at the end of that service you would get back into all the complications of the value-ladened approaches of means testing.

I would like to read from a letter from Marian Wright Edelman on this very subject. No champion of aid to needy children or to people in need is stronger than Marian Wright Edelman. This is what she said.

At its heart, national service is not an education program. It is an effort to restore American citizenship and rebuild American society. While the services that participants provide should be targeted at those who need them most, the participants ought to be as diverse as America itself. Everyone benefits from serving, not just the poor.

Means testing would threaten to rob the national service initiative of a central idea—that people of all backgrounds should serve, and work side-by-side doing so. National service can bring Americans of varied backgrounds together in the shared experience of working for a common good, building a community of citizens that goes beyond economic or racial lines. Nothing could be more important.

Nothing could be more important.

I yield my time back to the Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. BROWN. Madam President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I know because of the shortage of time, my good friend and colleague from Pennsylvania did not have a chance to finish reading the letter from the Children's Defense Fund.

I simply go to the sentence that follows, the closing line:

Strict limits on eligibility jeopardize the breadth of participation that is critical to the proposal.

Let me comment to the Members of the Senate to take a look at the amendment. It has nothing to do with eligibility.

The criticism we are faced with is that they ought to be diverse as America itself.

The amendment does not go to eligibility. The argument in the letter that was presented when read in full focuses on eligibility and diversity, and the amendment has nothing to do with it.

If we want to talk about the military, let us talk about the military, but this amendment has nothing do with the military.

If we want to talk about the Peace Corps, let us talk about the Peace Corps, but this amendment does not have anything to do with the Peace Corps.

If you want to talk about diversity in the participation of the program and breadth of participation and restricting access to the program, let us talk about those things. But this amendment does not have anything to do with it.

If you want to criticize the amendment, let us criticize it, but at least review the amendment and talk about what it really does.

What it actually does is use exactly the same formula that this body has imposed on the whole range of other educational programs. It is exactly the same. It is not different?

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BROWN. I will be happy to yield when I finish.

What it does is rely on the same formula. It does not restrict entry. It does not change the compensation stipends someone gets. It does not change the health care they get. It does not change the child care if it is appropriate that they get it. It provides individuals a means for them.

I understand how some Members are going to vote against that, and that is only right if they so believe.

But to characterize this as changing the eligibility for the program is simply not square with the facts. And to talk about the military or the Peace Corps or the other things simply does not focus on what this brings about.

The bottom line of what this amendment does is suggest that the funds we are going to spend in this program ought to be focused, when it comes to the educational grants, on those that need it and not on the children of millionaires.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I yield myself 1 minute.

We already do that in this program by ensuring that the postservice educational award will be considered taxable income for those with high income. If any participant is a wealthy individual, we will tax their benefit. So we are already achieving that goal.

But what is being suggested here is to means test the program, which will destroy a key character of the program: diversity in participants.

I yield 2 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Madam President, the Senator from Colorado would say to Americans and to middle-income Americans: Ask not what your country can do for you, but ask what you can do for your country. Then, when you finish the service to your country, along with all sorts of people, you in the middle-class, you in the middle-income, you are not going to get the full award. You are going to get a token award.

That is what means testing does to this program. It undermines the central spirit of bringing Americans together in common service to the common good.

As to the letter I read from Marian Wright Edelman, I ask unanimous consent that the text of the letter be printed in full in the RECORD.

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

CHILDREN'S DEFENSE FUND,
Washington, DC, June 11, 1993.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR CHAIRMAN FORD: I want to thank you for your leadership on the national service initiative. This is truly a society-transforming idea, and largely because of you, we can expect to see a diverse group of young people serving our communities in the very near future.

I understand that amendments that would means-test national service awards or sharply restrict participation are under consideration. I am writing to express my strong opposition to such proposals.

At its heart, national service is not an education program. It is an effort to restore American citizenship and rebuild American society. While the services that participants provide should be targeted at those who need them most, the participants ought to be as diverse as America itself. Everyone benefits from serving, not just the poor.

Means-testing would threaten to rob the national service initiative of a central idea—that people of all backgrounds should serve, and work side-by-side doing so. National service can bring Americans of varied backgrounds together in the shared experience of working for a common good, building a community of citizens that goes beyond economic or racial lines. Nothing could be more important. Strict limits on eligibility jeopardize the breadth of participation that is critical to the proposal.

No one believes more firmly than I that programs with participation targeted at the needy are critically important and the proposal that will be considered by the Committee already requires that half of the funds allocated to states be targeted to areas of economic distress. But, this program has a broaden purpose of inclusiveness as well. National service promises a new spirit of hope for all Americans. It is time to give that spirit a chance.

Sincerely yours,
MARIAN WRIGHT EDELMAN.

Mr. WOFFORD. Madam President, I would read these excerpts that I did omit last night.

This is truly a society-transforming idea.
* * *
I understand that amendments that would means-test national service awards or sharply restrict participation are under consideration. I am writing to express my strong opposition to such proposals. * * *
No one believes more firmly than I that programs with participation targeted at the needy are critically important and that the proposal will be considered by the committee—

Accomplishes that. But means testing this program, she says, would take the heart out of it.

Let us not do it, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I yield myself 2 minutes.

Madam President, we just heard very eloquent remarks. I might suggest, though, for the record, that the attitudes and the quotes attributed to me are not accurate, are not based on anything I said, nor what I believe.

I think if we are to exchange ideas in this, perhaps it would be more appropriate for someone who wants to quote me or ascribe to me to consider the gist of what I have said before they attribute quotes to me.

Madam President, the question about the meaning of the letter has been raised. I think it is a fair question of debate. The distinguished Senators on the other side may well have had personal contact with the writer of the letter, so perhaps they quoted correctly.

What I have in front of me is a letter. It says in three different places in the letter that it focuses on participation.

I understand that amendments that would means-test national service awards or sharply restrict participation are under consideration.

That is participation. This amendment has nothing to do with participation. It is not relevant. It is not relevant, just as the income tax is not relevant nor covered by this amendment, just as the Peace Corps is not relevant nor covered by this amendment, just as the military is not relevant nor covered by this amendment, just as the quote that was ascribed to me is not relevant, based on what I have said or implied.

That is in the second paragraph where the reference to participation is.

We already quoted the reference in the fourth paragraph.

The reference in the fifth paragraph is this:

No one believes more firmly than I that programs with participation targeted at the needy are critically important—

And it goes on to voice concern about that.

Madam President, I do not want to make this a program that is restricted to the needy. That is not the thrust of the amendment. It is not related to the amendment.

It does say, though, that with regard to the educational award, which is different than the three forms of compensation, that we are going to target our money.

The PRESIDING OFFICER. The Senator from Colorado has used his 2 minutes.

Who yields time?

Mr. KENNEDY. I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Madam President, I say to the Senator from Colorado that the practical effect of his amendment is that after someone has participated full time, worked hard all year or for 2 years, and they go to college and they come to the financial aid officer, hoping that they are going to have the $5,000 that had been accumulated for their service, and the financial aid officer says: Oh, I'm sorry. I am glad you gave your service and you thought you were going to get this educational award, but, no, you are going to get a fraction of it because your income is too high.

That is one of the things wrong with our society today. I, myself, have grave doubts about that approach. I think it is time to ask all people to share together. And this program is one where they work and share together and the educational voucher that they get at the end should be the same for the middle class as for the poor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I yield myself 1 minute

When we are talking about means testing you are talking about targeting the program to families with incomes of $17,000, $18,000, $19,000. That is what your talking about.

I think there are a lot of families who are making $25,000, $35,000, $45,000, $55,000, $65,000, $70,000, whose kids want to give something back to America, and they are entitled to that kind of educational grant that is included in this bill.

If you vote with the Senator from Colorado, you will never get broad-based participation in the program. These challenges that face Americans are all of our problems and should be solved by all Americans.

For the reasons that have been outlined here earlier, Madam President, I move to table the amendment of the Senator from Colorado.

I withhold that request.

Mr. BROWN. Madam President, I know there is a press for time by many Members. I would be glad to accede to the suggestion of my friend from Massachusetts.

Let me simply note that I think Senators will be glad to know that the concern that they will be surprised of the service, if the amendment passes; is not correct. The formula is well laid out. The minimums are present, as well, in the formula.

I would be happy to yield back the remainder of our time and go to a vote.

Mr. KENNEDY. Madam President, I yield back the remainder of my time.

I move to table the amendment of the Senator from Colorado 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. KENNEDY. Madam President, on behalf of the managers of the bill, I ask unanimous consent to be able to proceed just for 2 minutes to inform the Members about what the current situation is.

The first vote will be on a tabling motion of the Senator from Colorado.

The PRESIDING OFFICER. If the Senator from Massachusetts will withhold, pursuant to the previous agreement, the vote regarding the amendment of the Senator from Colorado will occur following the vote on the Biden and McConnell amendments. The question will be on the motion to table the Senator from Delaware's amendment, amendment No. 743.

Mr. KENNEDY. I ask the Chair to put that question.

VOTE ON MOTION TO TABLE AMENDMENT NO. 743

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment numbered 743 of the Senator from Delaware, Mr. BIDEN. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Colorado [Mr. CAMPBELL], the Senator from Arkansas [Mr. PRYOR], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. GREGG], the Senator from Arizona [Mr. MCCAIN], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that the Senator from Maine [Mr. COHEN] is absent due to a death in the family.

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

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

The result was announced—yeas 35, nays 53, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—35

Bennett	Domenici	Lott
Bond	Durenberger	Lugar
Boren	Faircloth	Mack
Brown	Gorton	McConnell
Burns	Grassley	Murkowski
Cochran	Hatch	Nickles
Coverdell	Hatfield	Pressler
Craig	Helms	Simpson
D'Amato	Hutchison	Smith
Danforth	Jeffords	Stevens
DeConcini	Kassebaum	Thurmond
Dole	Kempthorne	

NAYS—53

Akaka	Bryan	Feingold
Baucus	Byrd	Feinstein
Biden	Conrad	Ford
Bingaman	Daschle	Glenn
Boxer	Dodd	Graham
Bradley	Dorgan	Harkin
Breaux	Exon	Heflin

Inouye	Metzenbaum	Robb
Johnston	Mikulski	Rockefeller
Kennedy	Mitchell	Roth
Kerrey	Moseley-Braun	Sarbanes
Kerry	Moynihan	Sasser
Kohl	Murray	Shelby
Lautenberg	Nunn	Specter
Leahy	Packwood	Warner
Levin	Pell	Wellstone
Lieberman	Reid	Wofford
Mathews	Riegle	

NOT VOTING—12

Bumpers	Cohen	McCain
Campbell	Gramm	Pryor
Chafee	Gregg	Simon
Coats	Hollings	Wallop

So the motion to lay on the table the amendment (No. 743) was rejected.

Mr. KENNEDY. Mr. President, I hope now that we will vote on the McConnell amendment, as amended by the Biden amendment.

VOTE ON AMENDMENT NO. 743

The PRESIDING OFFICER. The question is on agreeing to amendment No. 743, the Biden amendment.

The amendment (No. 743) was agreed to.

VOTE ON AMENDMENT NO. 742

The PRESIDING OFFICER. The question now is on agreeing to the McConnell amendment, as amended.

The amendment (No. 742), as amended, was agreed to.

Mr. KENNEDY. 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.

Mr. HOLLINGS. Mr. President, I rise to explain my views on the President's national service legislation.

Right to the point, we need to maintain budget discipline. We are agreeing in the budget negotiations to freeze pay, to cut spending, and there we are on the floor trying to launch a new program without the money for it. I said "no" earlier this year with respect to taxpayer subsidies for political campaigns, and again, we need to say "no."

Mr. President, we cannot fund the programs we have. We are freezing Senators' pay, cutting White House staff by 25 percent, and we were asked to cut biomedical research at nine Institutes at the National Institutes of Health. We are cutting drug education for children and student aid. We have been asked by the administration to cut 242,000 students from grants to save $273 million, and now we are asked to create 20,000 volunteers with $300 million. We are told that administrative costs are limited to 15 percent in the first year—I note that even under this restriction, the resulting $45 million in administrative costs alone could help 150,000 students attend school through State student incentive grants.

At the same time, Pell grants see no light at the end of the tunnel. The average family receiving Pell grants 12 years ago made about $12,000. Today, the average Pell grant recipient makes less than $9,000, and the maximum grant amount actually declined since fiscal year 1992. I cannot see providing bonuses and health benefits for volunteers when we cannot pay simple student aid for qualified poor students waiting to go to college. We should help poor students in current programs before we create a new administrative and programmatic expense for national service.

Does anybody remember the TRIO programs? These time-tested programs are proven to help disadvantaged students get through college. This year we had only enough appropriations to fund grants scoring above 96 on a scale to 115. Three hundred million dollars could be well spent to fully fund TRIO if we had the money, but, Mr. President, we do not have it for TRIO, and we should not borrow it for national service.

It was just pointed out with pride by the White House that we already have 2,000 in the volunteer program working the floods in the Midwest. I immediately countered with the fact that there are over 2 million volunteers not in any program working these floods. Voluntarism, is alive and well in America and we don't need to act like we are inventing it here in the Congress. When we aren't immunizing children or paying child care workers enough to keep them, this does not make sense.

Finally, we already have Federal volunteer programs. Peace Corps supports 6,000 volunteers, and VISTA supports 2,800. Many more part-time volunteers are aided by other ACTION programs. These programs compete as priorities within the current, shrinking budget, and we can decide to expand them if that is where the need is.

Mr. President, it is not pleasant to clean up a massive fiscal mess, but that is the task we face under President Clinton's leadership. He has proposed a 5-year budget plan that caps fiscal year 1998 discretionary spending at $538 billion, which is below the fiscal year 1993 level provided under President Bush. As Senators know, this tough measure is needed because this year taxpayers will pay 59 cents of every income tax dollar to pay off creditors after 12 years of borrowing and bingeing. Put another way, every dollar collected west of the Mississippi this year will pay creditors instead of providing Government services.

Thus, the real national service challenge for Members in this Senate is to hold the line on new programs and to help the President put our house in order. We need leadership, and not gridlock, which is why I have voted to end the filibuster on this bill, but I remain opposed to the creation of a new funding responsibility for national service.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am now advised by the manager that agreements in principle have been reached on the following amendments: An amendment by Senator GRAMM, of Texas, regarding political activities; an amendment by Senator DOMENICI regarding reapportioning States; an amendment by Senator DOLE regarding disability and veterans; an amendment by Senator DOLE regarding a DOD report.

The other amendments included on the unanimous-consent list will not be offered. Therefore, Madam President, I ask unanimous consent, notwithstanding the previous unanimous-consent agreement, that it be in order for the previously mentioned agreed-upon amendments, which I have just listed, to be offered as a managers' amendment prior to final passage on Tuesday, August 3; and that third reading of the bill occur immediately thereafter, with all other provisions of the previous unanimous-consent agreement remaining in effect.

Mr. GLENN. Reserving the right to object.

Mr. MITCHELL. Madam President, I renew my request.

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

VOTE ON MOTION TO TABLE AMENDMENT NO. 722

The PRESIDING OFFICER. As previously ordered, the question now is on agreeing to the motion to table amendment No. 722 offered by the Senator from Colorado. The yeas and nays have been ordered.

Mr. MITCHELL. Madam President, in light of the agreement just obtained, this will be the last vote today. We are now pursuing an agreement which would permit us to debate nominations on Monday with no votes to occur on Monday. If we get that agreement, the next vote will be at 10 a.m. on Tuesday. If we do not get that agreement, there will be votes on Monday.

I think we will get it. We are very close to it. And Senators should check with their respective cloakrooms. We will make an announcement on it prior to the end of today, and we should know that shortly. But if we get the agreement, the next vote will be 10 a.m. on Tuesday.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. The question is on agreeing to the motion. 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 Arkansas [Mr. BUMPERS], the Senator from Colorado [Mr. CAMPBELL], the Senator from South Dakota [Mr. DASCHLE], the Senator from Nebraska [Mr. EXON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Arkansas [Mr. PRYOR],

and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Texas [Mr. GRAMM], the Senator from New Hampshire [Mr. GREGG], the Senator from Arizona [Mr. MCCAIN], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

I further announce that the Senator from Maine [Mr. COHEN] is absent due to a death in the family.

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

The result was announced—yeas 55, nays 31, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—55

Akaka	Graham	Mitchell
Baucus	Harkin	Moseley-Braun
Biden	Hatch	Moynihan
Bingaman	Hatfield	Murray
Boren	Heflin	Nunn
Boxer	Inouye	Pell
Bradley	Jeffords	Reid
Breaux	Johnston	Riegle
Bryan	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Roth
DeConcini	Kohl	Sarbanes
Dodd	Lautenberg	Sasser
Dorgan	Leahy	Shelby
Durenberger	Levin	Specter
Feingold	Lieberman	Wellstone
Feinstein	Mathews	Wofford
Ford	Metzenbaum	
Glenn	Mikulski	

NAYS—31

Bennett	Faircloth	Murkowski
Bond	Gorton	Nickles
Brown	Grassley	Packwood
Burns	Helms	Pressler
Cochran	Hutchison	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Stevens
D'Amato	Lott	Thurmond
Danforth	Lugar	Wallop
Dole	Mack	
Domenici	McConnell	

NOT VOTING—14

Bumpers	Daschle	McCain
Campbell	Exon	Pryor
Chafee	Gramm	Simon
Coats	Gregg	Warner
Cohen	Hollings	

So the motion to table the amendment (No. 722) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we have made significant progress on national and community service legislation. It is obvious that a solid majority of the Senate supports this legislation, and I am hopeful that by the time we achieve final passage on Tuesday, that the solid majority will be a solid bipartisan majority.

On Wednesday, the House of Representatives approved its version of the bill by an overwhelming vote of 275–152. Republicans in the house worked closely with Democrats, and we are doing the same in the Senate. There has been no attempt to make this a partisan bill, and I believe we have made remarkable progress in accommodating the views of our Republican colleagues in the Senate.

We have continued to discuss the specific provisions of the bipartisan Kennedy-Durenberger-Jeffords-Wofford substitute that is now before the Senate. We have continued to negotiate in good faith. We have achieved further common ground. And the filibuster—or whatever it was—is now over. We have demonstrated that we can work in a bipartisan manner on a bipartisan issue—providing effective opportunities for more citizens to serve their country.

We have engaged in a lengthy process of negotiation since July 20. All of us—Democrats and Republicans—can take pride in the progress we have made.

We have accepted or agreed to accept 27 amendments. Twenty-five of these 27 were Republican proposals to deal with their concerns.

Republicans wanted a shorter program authorization, so we reduced it from 5 years to 3 years. At the end of the 3 years, Congress can extend the program and revise it or improve it, based on the experience we gain.

Republicans wanted less spending. So we include specific authorizations of $300 million in 1994, $500 million in 1995, and $700 million in 1996—an eminently reasonable compromise between the President's original request and Republican proposals for even deeper cuts.

We added a provision to assure Republicans that the National Service Program will not be an entitlement program.

We have responded to Republicans who wanted to pay closer attention to the basic principles of the program. Do we need educational awards to attract participants? Should programs be economically targeted? How should the administration be structured? We agreed that all these issues should be evaluated, and the evaluation will undoubtedly shape the long-term direction of the program.

Republicans wanted to make sure—if we were paying the high cost to support full-time national service participants with postservice educational benefits—that the programs were meeting vital national and community needs. The substitute meets this concern by setting priorities that tie national and community service to the identified areas of greatest need.

We placed specific cost limits on the administration of the program. We increased the role and responsibility of the States in setting priorities and administering the program.

Thousands of young citizens are already expressing their support for this initiative. They attended a Washington rally and sent in postcards and made telephone calls to their Senators. What they want is an opportunity to serve their community—to make their community and their country a better place.

Finally, it is essential to keep in mind the fundamental principle we are debating. Community service—assistance to others, helping others to help themselves, working together to improve our neighborhoods—is what America is all about.

It is a concept as old as the first settlers who came to this land. They created new communities out of wilderness, and built the strongest Nation and the strongest democracy in the world.

In the course of the past two centuries, our greatest resource has always been our people. The challenges we face today pale in comparison with those that previous generations have faced. But we have lost something they had—the sense of community that enables us not just to meet, but to master, any challenge.

President Kennedy understood that, and still today, what people remember most and remember best about his inaugural address is his summons to service—ask not what your country can do for you, ask what you can do for your country.

In recent years, the message sent out from Washington to America too often has been a different kind of summons—a summons to selfishness—ask what your country can do for you.

Now, through this legislation, we can begin to get back to the best of our Nation's roots. We can encourage citizens of all ages and backgrounds to come together to do something for their community and their country.

That is why this measure is so important, and I urge all Senators to give it their support.

As President Clinton eloquently put it yesterday—it is not a Democratic bill; it is not a Republican bill; it is an American bill. And it ought to pass the Senate by a vote of 100 to nothing.

Mr. President, I thank very much my friend and colleague, Senator WOFFORD, of Pennsylvania. There have been many in this body and Chamber who worked tirelessly on the concept of service. I will say additional words about that next Tuesday. But he has been an invaluable ally in this whole process.

I thank my colleague, Senator KASSEBAUM, who, although she differs with us on some of the programmatic aspects of this endeavor, has been enormously committed to the concept of service. Even though she does not support this particular concept at this time, she has been invaluable in helping shape the legislation so that it is more responsive to not just the Members' needs but to all Americans' needs. I am grateful to her.

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

Mr. WOFFORD. Mr. President, I salute Senator KENNEDY, chairman of our committee. As a young man who saw Peace Corps volunteers go forth around the world from the White House lawn, he knew then, and all of us who helped start the Peace Corps knew, that the logic of the Peace Corps was that if we send forth the best young men and women of America to all the countries of Asia, Africa, Latin America, and now into the former Soviet Union and Eastern Europe, the logic of doing that was that we would someday bring that idea home on a big scale.

It has been a long journey of 25 years since some of us started working to follow that logic and to bring the Peace Corps home in new ways in which young people can serve in America with the kind of dedication and the effectiveness Peace Corps volunteers have done abroad.

We are there. We had a tough battle coming here. After a battle, it is time to come together.

I want to say that I am glad that this day has ended on that note because that is the way this bill began in the committee that Senator KENNEDY chairs. It has had a spirit of bipartisanship prevail, I am told, over many years, but in the 2 years I have been here I have seen it prevail. It did on this bill as we shaped it from the beginning, and it came forth from the committee with a vote of 14 to 3 with a majority of the Republicans voting for it. "The better angels of our nature have prevailed," to quote a great Republican leader. The better angels of our nature was always there with the Senator from Kansas [Mrs. KASSEBAUM], the ranking member of our committee. The better angels of our nature were there with the Republican leader, who helped us, today, move forward this bill.

The box score today, I hope, will read "Loss for Gridlock—Victory for the Young People of America and for the American People." But the greatest winners of all are the young men and women of the next generation. People in America are rightfully skeptical about whether we have the ability to act in this body, and today we showed them we did.

We can now look forward, having come together and overcome partisan politics today, to the passage of this national service bill that will ignite the spirit of service in this country and open the doors of college to thousands of young people.

Let me just close with the words of others, another Republican, Terrel Bell, U.S. Secretary of Education under President Reagan and cochair of the group Americans for National Service that has been fighting for this bill. He says:

> National service can connect young people to their communities, give Americans access to education, meet some of our most pressing social needs, and reinforce a proud tradition that goes back to the days of barnraisings and settlement houses. In a fundamental sense, it is not a new experiment but a tried-and-true American spirit of citizenship in action.

And lastly, an Army Air Corps corporal would now like to quote Gen. Norman Schwarzkopf's statement to our Senate Labor and Human Resources Committee on June 8. The general, incidentally, would not completely agree with our program because he thinks it is too small. He prefers everyone should be asked and enabled to serve. But this is what he said:

> I strongly believe that universal national service would provide a source of inexpensive, highly trained manpower to apply against many sectors of our country that desperately need help, would give a sense of self-worth to many young men and women who are lost today because they do not feel they will ever have a chance to make a contribution and, finally, would instill great patriotism in the youth of America who, because they earned the right to be called Americans, would be proud to be Americans.

I am proud to be an American today.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the chairman of the Finance Committee, pursuant to Public Law 102-393, appoints the following individuals as members of the Commission on the Social Security notch issue: Patricia M. Owens, of New York and Robert J. Myers, of Maryland.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 102-392, announces his appointment of the Senator from Oregon [Mr. HATFIELD] to the Commission on the Bicentennial of the United States Capitol.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that it be in order for the majority leader, after consultation with the minority leader, to proceed to the consideration of the following nominations on Monday, August 2:

Thomas Payzant to be Assistant Secretary for Elementary and Secondary Education (Executive Calendar No. 273), with 2 hours for debate to be divided and controlled in the usual form between the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Kansas [Mrs. KASSEBAUM], or their designees;

Sheldon Hackney to be chairperson of the National Endowment for the Humanities (Executive Calendar No. 274) with 5 hours for debate to be divided and controlled in the usual form between the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Kansas [Mrs. KASSEBAUM], or their designees;

Eleanor Acheson to be an Assistant Attorney General (Executive Calendar No. 275) with 3 hours for debate to be divided and controlled in the usual form between the Senator from Delaware [Mr. BIDEN] and the Senator from Utah [Mr. HATCH], or their designees; and

Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court (Executive Calendar No. 308).

I further ask unanimous consent that if a rollcall vote is requested on any of these nominations that the vote occur, without any intervening action, immediately following the rollcall vote on the passage of H.R. 2010, the National Service Act, on Tuesday, August 3, with the order of votes to be determined by the majority leader after consultation with the minority leader.

I further ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed at any time to the nomination of Walter Dellinger to be an Assistant Attorney General (Executive Calendar No. 288).

I further ask unanimous consent that upon confirmation of any of these nominees, the motion to reconsider be tabled and the President be notified of the Senate's action.

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

Mr. MITCHELL. Mr. President, for the information of Senators, pursuant to this order, debate on all of these nominations will take place on Monday, August 2. There may not be a need for a rollcall vote on each nomination.

However, there will be a rollcall vote on the nomination of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court. That vote will take place on Tuesday, August 3, following the vote on H.R. 2010, the National Service Act.

At the time of this vote, I will ask—I now request and will repeat my request at that time—that Senators cast their votes from their desks; that they remain at their desks during the vote and cast their votes when called upon.

Any Senator who wishes to speak on any of these nominations, including the nomination of Judge Ginsburg, should be prepared to speak on Monday, August 2. There will be no time for debate on these nominations on Tuesday, August 3.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate

proceed in executive session to consider the following nominations: Calendar Order Nos. 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, and all nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative action.

The nominations considered and confirmed, en bloc, are as follows:

DEPARTMENT OF STATE

John Francis Maisto, of Pennsylvania, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nicaragua.

David Laurence Aaron, of New York, to be the Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

Robin Lynn Raphel, of Washington, a career member of the Senior Foreign Service, class of Counselor, to be Assistant Secretary of State for South Asian Affairs.

Alan H. Flanigan, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of El Salvador.

James J. Blanchard, of Michigan, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Jeffrey Davidow, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Venezuela.

Thomas J. Dodd, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Oriental Republic of Uruguay.

Stuart E. Eizenstat, of Maryland, to be Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Donald C. Johnson, of Texas, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Richard Menifee Moose, of Virginia, to be Under Secretary of State for Management.

Mary M. Raiser, of the District of Columbia, for the rank of Ambassador during her tenure of service as Chief of Protocol for the White House.

Walter F. Mondale, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Alan R. Hurdus, and ending Darcy Fyock Zotter, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 13, 1993.

STATEMENT ON THE NOMINATION OF WALTER F. MONDALE

Mr. MITCHELL. Mr. President, I am sure my colleagues will join me in extending best wishes to former Vice President Mondale on this moment of his confirmation as the United States Ambassador to Japan.

He is a distinguished former Member of the Senate, who has the respect, trust, and confidence of the Congress. Fritz Mondale is ideally suited to represent our country as the next United States Ambassador to Japan. He has been to Japan many times—as a United States Senator, as Vice President, and as a private citizen. He knows and understands the close security and trade ties which bind our two nations together, as well as the differences which exist in our relationship.

I have full confidence that he will well represent American interests and values, in the same informed, understanding, firm, and statesmanlike manner that has been the hallmark of his long and distinguished career of service to our Nation.

STATEMENT ON NOMINATION OF WALTER F. MONDALE

Mr. DOLE. Mr. President, I am pleased to give my enthusiastic support for the nomination of Walter Mondale as United States Ambassador to Japan. Those of us who are privileged to know him as a friend, as a former Senate colleague, and as a distinguished public servant know that President Clinton has made an excellent choice to fill the most challenging diplomatic assignment in the U.S. Government today.

The Government and people of Japan should know that the new American Ambassador in Tokyo is a man who has the strong support of both Republicans and Democrats and that when he speaks about competition or cooperation between Japan and the United States, he does so with solid bipartisan backing.

Mr. President, I think it is unfortunate that too many people who think about Japan, do so in only one context, and that is trade. Although to be sure, the Japanese Government often seems intent on keeping trade as a major point of contention.

Just 5 days after the G–7 summit concluded in Tokyo on a note of cooperation, the Vice Minister of Japan's Ministry of International Trade and Industry said that the trade deficit between our two countries probably would not diminish over the next 2 years and actually predicted it would grow in the year to come.

But when we think of Japan we cannot only think of trade. We have to think of Japan as a major economic and political power which the United States must work with to advance democracy, to share the burden of international peace keeping, to provide assistance for victims of war and natural disaster and to cooperate on many other critical issues which is Japan's right and obligation.

Mr. President, I extend to Fritz and Joan Mondale my sincere best wishes for a successful and rewarding tour of duty in Japan. There is no better country in the world to represent than the United States and I can think of no better nominee to represent the United States than Walter Mondale. I commend President Clinton for his choice and urge my colleagues to support the nomination.

STATEMENT ON THE NOMINATION OF WALTER MONDALE

Mr. ROTH. Mr. President, I cannot let the appointment of Walter Mondale to be Ambassador to Japan pass without voicing my support for President Clinton's decision.

The nomination of Walter Mondale, a truly distinguished American statesman, sends a strong message to our ally in the Pacific; it lets the people and leaders of Japan know that the United States views the bilateral relationship between itself and that island nation as one of the most important geopolitical relationships today.

From my youth, and throughout my career in Congress, I have been keenly interested in Japan and the relationship between that country and our own. I have long believed that America's Ambassador in Tokyo is one of the most important appointments our President makes in foreign diplomatic policy. It is no secret that I held such high regard for Mike Mansfield, a man who became legendary in his own ambassadorial service to Japan. Ambassador Mansfield, perhaps like no other single individual, defined United States-Japanese policy for more than a decade.

Walter Mondale has the stature to assume the Mansfield mantle. I have every reason to believe that our former colleague and Vice president will live up to the high standards set by Mike Mansfield—even defining our strategic and economic relationship in the years to come. There will be challenges—that is to be expected—especially as it is likely that Japan, for the first time since 1955 will not be governed by the Liberal Democratic Party. There will be new faces—a new era of political dynamics. But again, Walter Mondale is the right man for the moment. He will take with him to Tokyo the experience, prestige, and access that few Americans can offer.

There is no doubt about his dedication to America and his desire to strengthen economic and diplomatic ties with Japan. In the Senate—and as Vice President—he has been forthright in his efforts to encourage the Japanese to open their markets. I believe the Japanese leadership admire his candor. Likewise, the Japanese see his appointment as an indication of just

how important we consider our relationship with them to be. As one newspaper reported, "nearly all the news reports (in Japan) described Mondale with the same word: Oh-mono, which literally means 'large thing,'" or one who has great influence.

I concur, and I look forward to a Mondale legacy that will come to match that established by Mike Mansfield.

STATEMENT ON THE NOMINATION OF DR. THOMAS DODD

Mr. HELMS. Mr. President, the Foreign Relations Committee yesterday favorably reported to the Senate 11 prospective Ambassadors. There was no one on that list whom I feel will be a finer Ambassador representing the interests of the United States than Dr. Thomas Dodd, who is about to be confirmed to serve as United States Ambassador to Uruguay.

Dr. Dodd, son of the late distinguished Senator from Connecticut, Tom Dodd, and the brother of the able Senator CHRIS DODD, is an internationally known educator and authority on Central and South American affairs. He is fluent in Spanish and has lived and studied in South America.

As I reviewed his background and talked with Dr. Dodd, I was convinced that he is the kind of political appointee for whom we should strive when selecting diplomatic nominees.

It's my pleasure to support Dr. Dodd and I urge his immediate confirmation so that he can be on his way to Uruguay.

STATEMENT ON THE NOMINATION OF THOMAS DODD

Mr. KENNEDY. Mr. President, I warmly endorse the nomination of Thomas J. Dodd as Ambassador to Uruguay. I strongly support Mr. Dodd's nomination and I urge the Senate to confirm him.

Mr. Dodd is the brother of one our colleagues, Senator CHRISTOPHER DODD of Connecticut, and I know that Senator DODD is very proud of his brother's achievements.

I have known Mr. Dodd for many years, and he is eminently qualified for the position of Ambassador to Uruguay. He has been an outstanding professor and scholar of Latin American studies and history, and has received numerous awards, grants, and fellowships based on the exceptional quality of his research.

Mr. Dodd is currently an associate professor of history at the School of Foreign Service at Georgetown University, where he has taught since 1966. Fluent in Spanish, he served previously as director of Latin American studies at the Georgetown School of Foreign Service, faculty advisor to the Central American Institute of Labor Studies, and lecturer at the Smithsonian Institution and the Inter-American Defense College, and the Defense Intelligence College at the National Defense University. He was a consultant to the State Department's policy and coordination staff during the Nixon administration and served for 3 years in the U.S. Army.

Mr. Dodd has written for numerous publications and authored four books, including "Latin American Foreign Policies: An Analysis", in 1975, and "Managing Democracy in Central America," in 1992. He has received numerous honors for his scholarship on Latin American issues from a variety of organizations, including the Delmar Foundation, the Ford Foundation, the Center for Strategic and International Studies, the Fulbright Foundation, the Organization of America States, and the Pew Memorial Trust.

I have enormous respect for Mr. Dodd's ability and judgment, and I am confident that he will do an outstanding job for President Clinton and the State Department as the United States Ambassador to Uruguay.

I urge all of my colleagues to join me in voting to confirm his appointment.

STATEMENT ON THE NOMINATION OF HON. JAMES J. BLANCHARD

Mr. RIEGLE. Mr. President, I would like to comment on the nomination of James Blanchard as United States Ambassador to the Commonwealth of Canada.

James J. Blanchard was Governor of Michigan for 8 years following four terms as a Member of the U.S. Congress. As Michigan's chief executive, Ambassador Blanchard turned around the State's finances, worked with the private sector to attract business investment and trade from around the world, and won national acclaim for his innovative approaches to economic development, education, crime fighting, environmental protection, and helping children and families.

On January 1, 1983, he took over what was described as the toughest Governor's job in America. His State faced a $1.7 billion deficit, the threat of bankruptcy, record-high unemployment of more than 17 percent, and the worst credit rating in America. Working with leaders of business, labor, education, and local government, the young Governor put together a strategy for Michigan's future and made the tough decisions necessary to keep it on track.

Ambassador Blanchard completed his work as Michigan's 45th Governor, having balanced eight consecutive State budgets, boosted the State's credit rating to AA, established a $422 million rainy day fund, and produced a solvency dividend of more than $1 billion in savings from reducing borrowing costs—$1 billion that was invested in education, economic development, law enforcement, and other priority areas. Financial World magazine named Michigan, under Governor Blanchard's leadership, one of the best financially managed States in the Nation.

Similarly, his aggressive small business and economic development efforts helped create more than 650,000 net new jobs, improve the business climate, increase companies' global competitiveness, and make Michigan's economy 35 percent more diversified than a decade earlier.

Governor Blanchard's nation leading efforts to retain and create jobs while improving work force skills included establishment of the Michigan Youth Corps, the largest and most successful summer jobs program in the Nation; the Michigan strategic fund, a national model for creating new sources of risk-taking capital; and the Michigan modernization service, which helps the State's top budget priority and created the Michigan Education Trust, the Nations' first public college tuition guarantee program. His schools of tomorrow strategy put Michigan on the leading edge of education change by emphasizing preschool education, and institution and employability skills assessment to ensure high school graduates are prepared and able to work.

Newsweek credited Governor Blanchard with leading "one of the most dramatic economic turnabouts in the recent history of State government." Inc. magazine pointed to Governor Blanchard's innovative long-term economic development strategy as a model for the Nation. U.S. News and World Report listed Jim Blanchard among the six best Governors in America, one of the innovators and energizers who made things work in an era of declining Federal aid. City and State magazine named him one of the Nation's top three Governors, citing his "strong leadership and managerial skills," the pivotal role he played in revitalizing Michigan's economy, and his efforts to attract new and diverse business to the State.

As part of his long-term economic development and diversification strategy, Governor Blanchard was active in recruiting and promoting international investment and trade, particularly with Japan, China, Canada, the United Kingdom, and Europe. He established new Michigan trade centers in Toronto, Hong Kong, and Lagos, in addition to strengthening the State's existing offices in Tokyo and Brussels. And he worked cooperatively with the leaders of the Great Lakes States to target Canada and the United Kingdom for regional trade and tourism promotion efforts.

Governor Blanchard has worked closely with the Premier of Ontario and the Prime Minister of Canada to improve Michigan-Canadian relations and boost joint trade and environmental protection efforts. He was awarded the International Freedom Festival's Freedom Award in recognition of his leadership in United States-Canada affairs.

Governor Blanchard has worked aggressively to preserve and protect

Michigan's environment and the waters and shores of the Great Lakes. He spearheaded efforts by the leaders of the eight States and two Canadian provinces bordering the Great Lakes to adopt key international agreements to protect the lakes from diversion and the threat of toxic pollution. Working closely with other Governors in the region, he developed an agreement to jointly monitor potential oilspills and created the unique, $100 million Great Lakes protection fund.

During his four terms in Congress (1975–82), Jim Blanchard distinguished himself for his work to save the Chrysler Corp., restore America's economic competitiveness, and oversee financial, monetary, trade, and energy issues. His major assignments included the House Banking, Finance and Urban Affairs Committee and its Subcommittees on Economic Stabilization, Housing and Urban Development, International Trade, and Domestic Monetary Policy, and the Science and Technology Committee.

As a member—and later chairman—of Economic Stabilization, he authored and won passage of the Chrysler Loan Guarantee Act in the House, saving hundreds of thousands of jobs. He also played a major role in the New York City financial rescue and held hearings across the country on U.S. competitiveness in the global marketplace. He was a sponsor of the legislation creating urban development action grants, as well as the significant housing legislation of that period. He has performed oversight of the Federal Reserve Board and participated in meetings of the International Monetary Fund.

As a member of the House Science and Technology Committee, including its Subcommittee on Energy, Research and Development, he was a sponsor of major energy and research legislation and performed oversight of the Department of Energy budget. He oversaw the research and development budgets of the Environmental Protection Agency and the National Oceanic and Atmospheric Agency as a member of the Subcommittee on the Environment and Atmosphere. He was active in the International Joint Commission [IJC] and hosted a meeting between Canadian environmental officials and Members of Congress on key environmental policy issues. He helped found the Congressional Clearinghouse for the Future, a small group of forward thinking House and Senate Members focusing on future issues, and served as Democratic whip for Michigan's delegation. He also served on the President's Commission on the Holocaust.

Jim Blanchard began his law and public service career in 1968 as a legal advisor in the Michigan Secretary of State's office. He became a Michigan assistant attorney general in 1969, and then assistant deputy attorney general, specializing in administrative law. Prior to being elected to Congress, he was in the private practice of law, representing State agencies and specializing in administrative law.

He is a former chairman of the Democratic Governors' Association. He is active in the National Institute of Former Governors.

Jim Blanchard has been the recipient of numerous honors and awards, including the 1991 Inc. magazine Supporter of Entrepreneurship Award, the Jewish National Fund's Tree of Life Award, the University of Minnesota's Outstanding Achievement Award, Michigan State University's Distinguished Alumni Award, and the Helen W. and William G. Milliken Freedom Award. In 1978, he was named one of the 10 Outstanding Young Men in America by the United States Jaycees.

Ambassador Blanchard will be an able and welcomed friend in Ottawa capable of understanding the concerns of the Commonwealth of Canada and at the same time representing the best interests of the United States of America. I believe he will be an outstanding Ambassador. I commend the administration for their foresight in nominating him and urge my colleagues to support this nomination.

THE EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I thank the Republican leader for his cooperation with respect to all of these nominations, and particularly for the prompt disposition of Walter Mondale's nomination to be the Ambassador to Japan. Senator DOLE and I appeared jointly at a hearing before the relevant subcommittee this week. I am grateful for his cooperation in that regard.

I simply want to note that I read off these by number. Each of them is, of course, important.

I want to refer to at least two others besides former Vice President Mondale.

Included in the list Stuart Eizenstat, to be Representative of the United States to the European Community. I commend Mr. Eizenstat and know he will do an outstanding job.

Mr. DOLE. Mr. President, will the majority leader will yield?

Mr. MITCHELL. Yes.

Mr. DOLE. I want the record to reflect that I had letters from both former President Ford and former President Bush in support of the Eizenstat nomination.

Mr. MITCHELL. Mr. President, as to the nomination of Mary M. Raiser, for the rank of Ambassador during her tenure of service as Chief of Protocol for the White House, Mrs. Raiser is an outstanding citizen who, I am confident, will do a superb job.

There are a number of other Ambassadors, including James J. Blanchard, to be Ambassador to Canada. I know former Governor Blanchard will do an outstanding job.

Previous mention was made of Thomas J. Dodd, to be the Ambassador to the Oriental Republic of Uruguay. Mr. Dodd, of course, is well-known to many Senators and will, I am confident, also do an outstanding job.

Mr. President, I thank my colleague for his cooperation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

WALT RIKER

Mr. MITCHELL. Mr. President, Senator DOLE is about to make a statement regarding Walt Riker, who has been a member of Senator DOLE's staff and who is leaving the Senate. I want to associate myself with his remarks and to say I know, like, and respect Walt Riker. I believe he has done an outstanding job, and has been very thorough and very fair in behalf of the distinguished Republican leader.

I attended the function in his behalf the other evening. I just want to say publicly what I said privately: He has done a very good job. I am certain he will do a very good job in the position he is now assuming.

I believe all Senators join Senator DOLE and me in wishing him the very best.

The PRESIDING OFFICER. The Republican leader is recognized.

SALUTE TO WALT RIKER

Mr. DOLE. Mr. President, I thank the majority leader and I know Walt appreciates the opportunity he had to work with the majority leader and his staff over the years.

I want to emphasize and reemphasize and recognize the career of this longtime aide, who will be leaving my staff at the end of this week. Walt Riker has been my loyal press secretary for the past 12 years.

From my days as finance committee chairman, to my tenure as majority leader and republican leader, Walt has been there, on the front lines 24-hours a day dealing with reporters from every media outlet in Kansas and every media outlet in America. When he was not setting a few misguided journalists straight, he was drafting speeches, writing press releases, working long hours, and doing a lot of the other unglamorous things that press secretaries do.

Walt and I have been around the block together—in fact, we have been around the world together, to every State in America, and countless foreign countries. From Wichita to Warsaw, from Manhattan to Managua, Walt has done it all in the world of press relations.

He has done it all the only was Walt knows how, with wit, skill, integrity,

and grace under pressure. I underscore the word integrity because I know of no one who has more integrity than Walt Riker. Around this place that is about all you have. All you have is your word and your integrity. Once that is somehow violated or tarnished, it is not good. But Walt Riker has been steadfast. He will be the first to tell you that being a press secretary is hardly a 9-to-5 job, and I suppose his family will be the second to tell you. They have all made the Senate staff sacrifice, and being the family man that Walt is, he is looking forward to a new challenge that will not conflict as much with the little league games, swim meets, and school plays that this dedicated father hates to miss.

Beginning next week, Walt embarks on an exciting new career, as director of public affairs communications with the McDonald's Corp. in Oak Brook, IL. Anyone who knows Walt can tell you that he is a firm believer in that company and in its products, which seem to find their way to Walt's desk just about every day at lunchtime. When they say "billions and billions served," I sometimes wonder whether they are just talking about Walt. Walt will also be able to satisfy his passion for big league baseball in Chicago, a city with not one but two major league teams.

I am grateful to Walt for his 12 years of service, and I know my colleagues join me in wishing Walt Riker all the best as he, his wife Christine, and their children Wally, Kelly and Whitney relocate to the Chicago area.

Now, a few liberal reporters may not miss him, but that may be the best testament yet to Walt's talent, ability, and success.

MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent we now have a period for morning business with Senators allowed to speak therein for up to 10 minutes, and that the Senator from Delaware [Mr. BIDEN] be given 30 minutes.

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

EXPLANATION OF RECOMMENDED AMENDMENTS OF THE COMMITTEE ON APPROPRIATIONS TO H.R. 2667

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD the following statement in explanation of the recommended amendments of the Committee on Appropriations to the bill H.R. 2667, making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

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

EXPLANATORY STATEMENT OF THE RECOMMENDATIONS OF THE SENATE COMMITTEE ON APPROPRIATIONS ON H.R. 2667, MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1993, AND FOR OTHER PURPOSES

The Committee on Appropriations, to which was referred the bill (H.R. 2667) making emergency supplemental appropriations for relief from the major, widespread flooding the Midwest for the fiscal year ending September 30, 1993, and for other purposes, reports the same to the Senate with amendments, and with the recommendation that the bill be passed.

BILL HIGHLIGHTS

The Committee is recommending fiscal year 1993 emergency supplemental appropriations to cover emergency expenses primarily arising from the consequences of the recent heavy rains and flooding along the Mississippi River, particularly in the upper Midwest. The Committee recommendation totals $4,706,350,000 in budgetary authority and $502,000,000 in loan authority, the same as the President's request. These funds are broken down as follows:

Committee bill, total appropriations[1]	$4,706,350,000
Emergency appropriations	(3,797,645,000)
Contingency appropriations	(908,705,000)
Loan authority	502,000,000

[1] Includes subsidy appropriations of $93,483,000.

Major items in this bill include:

Commodity Credit Corporation	$1,350,000,000
Direct appropriations	(1,050,000,000)
Contingency appropriations	(300,000,000)
FEMA (disaster relief fund)	2,000,000,000
Direct appropriations	(1,735,000,000)
Contingency appropriations	(265,000,000)
Corps of Engineers (flood control and coastal emergencies and O&M)	235,000,000
Direct appropriations	(175,000,000)
Contingency appropriations	(60,000,000)
Federal Highway Administration (emergency relief)	175,000,000
Direct appropriations	(100,000,000)
Contingency appropriations	(75,000,000)
Small Business Administration (disaster loans)	300,000,000
HOME investment partnerships	50,000,000
Community development block grants	200,000,000
Economic Development Administration	100,000,000
HHS public health and social services emergency fund (contingency)	75,000,000
Department of Education impact aid (contingency)	70,000,000
Department of Agriculture (watershed/flood prevention/emergency conservation)	60,000,000
Direct appropriations	(35,000,000)
Contingency appropriations	(25,000,000)
Department of Agriculture emergency community water assistance	50,000,000
Direct appropriations	(20,000,000)
Contingency appropriations	(30,000,000)
Rural development insurance fund (loan guarantees)	100,000,000
Direct appropriations	(50,000,000)
Contingency appropriations	(50,000,000)
Agricultural credit insurance fund (soil and water and emergency disaster loan authority)	87,000,000

FLOODING SITUATION

This bill responds to widespread flooding in the upper Mississippi River basin which has been unprecedented in terms of geographical scope, record setting heights, and duration.

Along the Mississippi River, record flood stages have been established between the cities of Davenport, IA, and St. Louis, MO. At St. Louis, the flood crest exceeded the previous all-time record. Record flood stages have also been established at a number of locations along the Missouri River and in many tributary streams. In many locations, the flooding has overwhelmed flood protection systems designed to protect urban and agricultural areas despite the heroic efforts of thousands of our citizens.

On July 14, 1993, the President made requests totaling $2,242,000,000 in direct emergency appropriations along with $824,000,000 in contingency appropriations. Because of continuing rainfall and the resulting flooding, the Director of the Office of Management and Budget identified an additional $500,000,000 in additional requirements, which were considered by the House.

As the extent of the inundated area has expanded it became clear that the initial requests were necessarily preliminary and that additional needs existed. Accordingly, on July 29, 1993, the President submitted additional requests, which included those items identified by the OMB Director on July 19, for an additional $2,464,350,000 in new requests, of which $862,000,000 were requested for supplementary funding in fiscal year 1994 for disaster relief.

EMERGENCY DESIGNATION

Pursuant to the President's request, the Committee recommends language designating all disaster relief funds in this bill as emergency requirements under the terms of the 1990 Budget Enforcement Act. Under that act, appropriations that are designated as emergency requirements by both the President and the Congress are not required to be absorbed within the discretionary spending limits.

The emergency designations in this bill are consistent with past special disaster relief appropriations in 1992 to cover the high disaster relief costs caused by Hurricane Andrew, Hurricane Iniki, the Chicago floods, and disturbances in Los Angeles. Emergency appropriations were also enacted for the unusually high level of disasters that occurred in 1992 such as Hurricane Bob, the devastating fires in Oakland, CA, and the State of Washington; the northeastern storm that ravaged the New England area; and a high number of agricultural disasters such as the California freeze, Red River Valley Texas floods, Kansas drought, Minnesota/Iowa excessive rainfall, Southeastern States drought, and Louisiana/Texas freeze.

In addition, the Congress has made emergency appropriations in 1991 at the request of

the previous President to meet over $1,100,000,000 in international commitments and humanitarian needs such as aid to Kurdish refugees and economic support payments to the Governments of Turkey and Israel.

Prior to the 1990 Budget Enforcement Act, special emergency bills were enacted between 1980 and 1990 for large domestic and international disasters such as the Loma Prieta earthquake, Hurricane Hugo, the Mount St. Helen's volcanic eruption, African famine relief, and Italian earthquakes.

CHAPTER I

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

EXTENSION SERVICE

1993 appropriation to date	$424,928,000
1993 supplemental estimate	3,500,000
House allowance	
Committee recommendation	3,500,000

COMMITTEE RECOMMENDATIONS

The Committee recommends an additional $3,500,000 for the Extension Service, the same as the budget request. This amount would provide additional funds for the Extension Service, in cooperation with the State extension services, to provide assistance to individuals, families, farm operators, small businesses, and rural communities in the immediate aftermath of the Midwest floods of 1993. Extension agents would work in post-crisis teams to provide farm financial management counseling, aid in assessing post-flood damage and contamination, and provide education and technical assistance to help flood victims rehabilitate homes. All efforts would be coordinated with the Federal Emergency Management Agency, the American Red Cross, and other agencies involved in the crisis response.

The entire amount requested has been designated by the President and Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

1993 supplemental estimate	$1,350,000,000
House allowance	1,150,000,000
Committee recommendation	1,350,000,000

The Committee has included $1,050,000,000, the same as the budget request, in emergency funding for the Commodity Credit Corporation fund to be made available immediately to enable the Commodity Credit Corporation to make disaster payments to farmers who have suffered losses from natural disasters in 1993, including the Midwest floods and the drought in the Southeastern States. Each claim would be funded at the previously used rate of 50.04 percent, except that for the deficiency in production of the crop in excess of 75 percent the rate of payment shall be 90 percent.

In addition, like the House and budget request, the Committee has included authorization to use other Commodity Credit Corporation funds if the requested funds are not adequate to provide the aforementioned level of assistance for 1993 disasters.

Furthermore, the Committee concurs with the House and budget request in providing an additional $300,000,000 to be made available only upon the submission of a budget request designated by the President as an emergency requirement. Because CCC funds may be used to cover any shortfall in reaching the 50.04-percent payment rate, the Committee sees no need for this contingent appropriation, but nevertheless, has acquiesced to the budget request.

These additional funds for the Commodity Credit Corporation will provide disaster payments to farmers who have suffered losses from recent flooding in the Midwest and other natural disasters in 1993. It will ensure that all eligible 1993 disaster claims will be prorated by the previously employed factor of 50.04 percent, except that for the deficiency in production of the crop in excess of 75 percent the rate of payment shall be 90 percent, so that the Secretary of Agriculture can immediately assist farmers with 1993 crop losses. The Committee has included language that directs that the $100,000,000 in contingency funds recently released by the President is available for 1993 crop losses only as proposed by the President. Funds remaining from previous disaster appropriations would be available for 1990–92 losses only, including crop quality losses, which are eligible under Public Law 103–50, also as proposed by the President.

This appropriation will provide funding for disaster payments to producers whose 1993 crops are damaged or destroyed by 1993 natural disasters under terms and conditions established by title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990. This includes benefits for prevented plantings and low yield losses as authorized by section 2241 of that act. Balances of previous appropriations for disaster payments, currently estimated at approximately $300,000,000, are available for disaster payments on 1990–92 crops as well as for 1993–95 crop losses due to the occurrence of Hurricanes Andrew and Iniki and Typhoon Omar.

The Secretary of Agriculture may designate up to $20,000,000 for emergency and related assistance for low-income migrant and seasonal farmworkers as authorized under title XXII, subtitle C, section 2281 of Public Law 101–624. Priority will be given for relocation and related transportation assistance for affected farmworkers. Additional services may be provided as determined by the Secretary.

The Committee notes that, in many cases, relief can be provided by allowing the haying and grazing of CRP (Conservation Reserve Program) acres. In the past, these practices have been allowed at the discretion of the county ASCS committee. The Committee recommends that this practice be continued.

The Committee also recommends that ASCS simplify the application and eligibility procedures for emergency haying and grazing on Conservation Reserve Program acres and other emergency livestock feed programs to reduce paperwork and expedite qualification.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

1993 appropriation to date	$231,594,000
1993 supplemental estimate	60,000,000
House allowance	25,000,000
Committee recommendation	60,000,000

The Committee has included $60,000,000 for the watershed and flood prevention operations program of the Department of Agriculture. The funds would be used to safeguard lives and property in jeopardy due to sudden watershed impairment from the Midwest floods and other 1993 natural disasters. Specific uses would include the repair of over-topped levees, dikes, and other flood retarding structures, streambank repair, soil erosion prevention, and the opening of water courses plugged with sediment and debris.

The entire amount has been designated by Congress as an emergency requirement. The President proposed, and the Committee recommends, that $60,000,000 be appropriated with $25,000,000 available only to the extent requested as an emergency requirement by the President.

In addition, the request would allow the Secretary of Agriculture to accept bids from willing sellers to enroll cropland into the Wetlands Reserve Program if the cost of restoring the cropland and rebuilding levees exceeds the fair market value of the affected cropland.

Of the request, $35,000,000 has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS)

1993 appropriation to date	$714,551,000
1993 supplemental estimate	12,000,000
House allowance	
Committee recommendation	12,000,000

The Committee recommends an additional $12,000,000, as requested by the President, for salaries and expenses of the Agricultural Stabilization and Conservation Service. These funds are needed to cover the extra workload taken on by ASCS offices to process disaster assistance claims and to provide the payments.

EMERGENCY CONSERVATION PROGRAM

1993 appropriation to date	$3,000,000
1993 supplemental estimate	30,000,000
House allowance	20,000,000
Committee recommendation	30,000,000

The Committee has included $30,000,000, as proposed by the President, for the Department of Agriculture's emergency conservation program. These funds would assist farmers with debris cleanup and the restoration of farmland damaged by the Midwest floods and other natural disasters of 1993.

The entire amount requested has been designated as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

SECTION 504 HOUSING REPAIR LOANS

	Loan level	Subsidy
1993 appropriation to date	($11,330,000)	$4,548,000
1993 supplemental estimate	(15,000,000	5,985,000
House allowance		
Committee recommendation	(15,000,000)	5,985,000

COMMITTEE RECOMMENDATIONS

The Committee recommends an additional $15,000,000 in section 504 rural housing building and repair loans as proposed by the President. The subsidy required for these loans is $5,985,000. The entire amount has been designated to be an emergency requirement.

These loans are made to enable eligible low-income applicants to purchase, construct, improve, alter, repair, or replace dwellings in rural areas, if their need for necessary housing cannot be met with financial assistance from other sources.

The Committee notes that nearly $13,500,000 previously made available for disasters under this program remain available until September 30, 1993, and expects these funds to be used to the full extent possible.

AGRICULTURAL CREDIT INSURANCE FUND
PROGRAM ACCOUNT
SOIL AND WATER CONSERVATION LOANS

	Loan level	Subsidy
1993 appropriation to date	($2,337,000)	$456,000
1993 supplemental estimate	(7,000,000)	1,284,500
House allowance		
Committee recommendation	(7,000,000)	1,284,000

COMMITTEE RECOMMENDATIONS

The Committee recommends an additional $7,000,000 in direct soil and water conservation loans as requested by the President. The subsidy level for these loans is $1,284,000, $500 less than the budget request. The entire amount is designated to be an emergency requirement.

These loans are made to individuals, cooperatives, corporations, or partnerships who own and/or operate a farm, for land and water development, use and conservation. Funds would be used to develop wells, to improve water supplies, and to build dikes, terraces, waterways, and other erosion control structures.

EMERGENCY DISASTER LOANS

	Loan level	Subsidy
1993 appropriation to date	($115,000,000)	$15,762,000
1993 supplemental estimate	(80,000,000)	20,504,000
House allowance		
Committee recommendation	(80,000,000)	20,504,000

COMMITTEE RECOMMENDATIONS

The Committee recommends an additional $80,000,000 for emergency disaster loans as proposed by the President. The subsidy level is $20,504,000. The entire amount is designated to be an emergency requirement.

These loans are made in designated areas (counties) and in contiguous counties where property damage and/or severe production losses have occurred as a direct result of a natural disaster. Loans will be used to refinance existing debt, clean up and restore farms, and repair farm structures. Areas may be declared by the President or designated for emergency loan assistance by the Secretary of Agriculture.

The Committee notes that more than $162,000,000 previously made available for disasters under this program remain available until September 30, 1993, and expects these funds to be used to the full extent possible.

The Committee encourages the Secretary to take the following actions to assist FmHA borrowers survive the catastrophic losses experienced in the natural disasters of 1993: (1) Immediately deploy an emergency loan support team and an emergency loan assessment team as provided under 7 C.F.R. 1945.30; (2) use the lowest possible interest rate for emergency disaster [EM] loans; (3) simplify the application process for EM loans, particularly the calculation used to determine whether an applicant has had a qualifying loss; (4) to the maximum extent possible, use the large number of loan servicing tools available and exercise forbearance in servicing borrowers who are becoming delinquent due to this financial crisis; (5) require guaranteed loan lenders to perform a write-down analysis before undertaking a foreclosure analysis and action, and implement the authorization in the Agricultural Credit Act of 1987 which allows lenders to write-down guaranteed loans when it is the least cost alternative to the lender and the Government; (6) allow guaranteed loan borrowers to appeal an FmHA adverse decision without the lender joining in the appeal; (7) allow lenders to write down principal before interest on guaranteed loans to reduce severe tax consequences on borrowers; (8) reduce or eliminate the current 10-percent cash reserve which is required of borrowers in order to qualify for a guaranteed loan; and (9) provide a notice of loan servicing options to guaranteed loan borrowers to inform them of their rights.

In administering the FmHA emergency loan program, the Committee urges the Secretary to revise instruction 1945–D: (1) to require only one real estate appraisal if it demonstrates adequate collateral; (2) to limit an EM loan for production losses to 100 percent of the total calculated actual production loss; and (3) to schedule the repayment of an EM loan on the applicant's ability to pay, with interest-free deferral of up to 5 years.

RURAL DEVELOPMENT INSURANCE FUND
PROGRAM ACCOUNT
INDUSTRIAL DEVELOPMENT LOANS

	Loan level	Subsidy
1993 appropriation to date	($100,000,000)	5,440,000
1993 supplemental estimate	(100,000,000)	5,410,000
House allowance		
Committee recommendation	(100,000,000)	5,410,000

The Committee recommends an additional $100,000,000 for guaranteed industrial development loans as proposed by the President. The subsidy amount provided is $5,410,000, the same as the budget request. Half of this amount, $2,705,000, is available only to the extent requested by the President as an emergency requirement. The entire amount is designated to be an emergency requirement.

WATER AND WASTE DISPOSAL GRANTS AND LOANS

The Committee does not recommend additional funds for water and waste disposal loans and grants. However, the Committee notes that $35,500,000 in loan authority and $5,600,000 in grants previously made available for disaster assistance under this program remain available until September 30, 1993, and expects these funds to be used to the full extent possible.

VERY LOW-INCOME HOUSING REPAIR GRANTS

1993 appropriation to date	$12,500,000
1993 supplemental estimate	15,000,000
House allowance	
Committee recommendation	15,000,000

COMMITTEE RECOMMENDATIONS

The Committee recommends an additional $15,000,000 for very low-income housing repair grants, the same as the budget request. The entire amount is designated to be an emergency requirement.

These grants are used for very low-income elderly owner-occupants to make necessary repairs to their homes in order to make such dwellings safe and sanitary, and remove hazards to the health of the occupants, their families, or the community. Grants may be made to cover the cost of improvements or additions, such as repairing roofs, providing toilet facilities, providing a convenient and sanitary water supply, installing screens, repairing or providing structural supports, or making similar repairs, additions, or improvements including all preliminary and installation costs in obtaining central water and sewer service.

The Committee notes that nearly $10,000,000 previously made available for disasters under this program remain available until September 30, 1993, and expects these funds to be used to the full extent possible.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

1993 appropriation to date	$10,000,000
1993 supplemental estimate	50,000,000
House allowance	
Committee recommendation	50,000,000

The Committee recommends an additional $50,000,000 for emergency community water assistance grants as proposed by the President. Of this amount, $30,000,000 is available only to the extent requested by the President as an emergency requirement. Funds will be used to assist rural communities that have had a significant decline in quantity or quality in their drinking water supply or their existing water system needs emergency repairs. The entire amount has been designated by Congress as an emergency requirement.

The Committee notes that nearly $10,000,000 previously made available for disasters under this program remain available until September 30, 1993, and expects these funds to be used to the full extent possible.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

1993 appropriation to date	$217,000,000
1993 supplemental estimate	100,000,000
House allowance	100,000,000
Committee recommendation	100,000,000

The Committee recommends an additional $100,000,000 for title IX disaster assistance grants for State and local government that have been impacted by the Midwest floods of 1993 and other disasters. The recommended level is the same as the President's request and the House allowance. These funds would be used for planning and technical assistance and infrastructure. These funds have been designated as emergency appropriations in accord with the Budget Enforcement Act.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH AND FACILITIES

1993 appropriation to date	$1,501,366,000
1993 supplemental estimate	1,000,000
House allowance	1,000,000
Committee recommendation	1,000,000

The Committee recommends $1,000,000 for the National Oceanic and Atmospheric Administration [NOAA] to repair and replace facilities and equipment damaged during flooding in the Midwest. Included is National Weather Service flood warning systems and salary and expense funds for extraordinary overtime costs incurred during the flood. This level is the same as the President's budget request and the House allowance. These funds have been designated as emergency appropriations in accord with the Budget Enforcement Act.

RELATED AGENCIES

LEGAL SERVICE CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

The Committee has not recommended $300,000 in emergency supplemental appropriations for the Legal Services Corporation as proposed by the House. The President's supplemental request, and supplemental budget amendment submitted after House action on July 29, 1993, did not propose to increase funding for legal assistance.

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN PROGRAM ACCOUNT

1993 supplemental estimate	$70,000,000

House allowance	70,000,000
Committee recommendation	70,000,000

The Committee recommends $70,000,000 for the Small Business Administration "Disaster loan program" account. This is the same as the President's budget request and the House allowance. This funding level provides $60,000,000 to subsidize $300,000,000 in low-interest loans for rebuilding businesses and homes damaged or lost during the recent floods and other disasters. The sum of $10,000,000 is provided for program administrative costs, such as loan processing. These funds have been designated as emergency appropriations in accord with the Budget Enforcement Act.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

1993 appropriation to date	$20,000,000
1993 supplemental estimate[1]	180,000,000
House allowance	120,000,000
Committee recommendation	180,000,000

[1] Additional funding requested subsequent to House action on the emergency supplemental.

An appropriation of $180,000,000 is recommended to repair unexpected damage caused by recent flooding. This is the same as the budget request.

The Committee has included $120,000,000 in emergency funding for the Army Corps of Engineers to repair damage to flood control works within the upper Mississippi River basin. An additional $60,000,000 is being requested to be made available contingent upon submission by the President of a later budget request designated as an emergency requirement. After the flood subsides, the Corps is expected to play an active role in cleanup of debris and repair of levees and other flood control systems.

This supplemental request would provide additional funds to repair unexpected damage to the nonfederally operated flood control works located within the upper Mississippi River basin and other activities authorized under the terms of Public Law 84–99, as amended.

Of the amount requested, $120,000,000 has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, GENERAL

1993 appropriation to date	$1,657,700,000
1993 supplemental estimate[1]	55,000,000
House allowance	30,000,000
Committee recommendation	55,000,000

[1] Additional funding requested subsequent to House action on the emergency supplemental.

The Committee has included $55,000,000 for the Corps of Engineers to undertake repairs to Federal projects, including locks and dams and floor control facilities, damaged as a result of the severe flooding in the Mississippi River basin.

The entire amount recommended has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

69-059 O—97 Vol. 139 (Pt. 12) 46

CHAPTER IV

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

1993 appropriation to date	$4,342,156,000
1993 supplemental estimate	43,500,000
House allowance	43,500,000
Committee recommendation	43,500,000

The Committee concurs with the budget request for an additional $43,500,000 under the dislocated worker program, title III, part B of the Job Training Partnership Act. These funds will be used to provide temporary jobs designed to address problems created by the flooding in the Midwest, including cleanup and repair, as well as public safety and health services. Eligible participants will include workers dislocated by the floods, as well as other dislocated workers, including the long-term unemployed.

The Committee has deleted authorizing language in section 802, which requires the payment of a stipend to participants in the Youth Fair Chance Program. This is a new program that was funded in Public Law 103–50, a fiscal year 1993 supplemental appropriations bill signed into law July 2, 1993. The provision included by the House-passed bill was previously rejected in conference on Public Law 103–50. The Committee feels strongly that any changes in the Youth Fair Chance Program should be made after hearings and action by the authorizing committees. Further, this is an emergency spending bill responding to floods in the Midwest.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

1993 appropriation to date	
1993 supplemental estimate	$75,000,000
House allowance	
Committee recommendation	75,000,000

The Committee recommends $75,000,000, the same as the supplemental estimate, for the public health and social services emergency fund of the Department of Health and Human Services, which will be available upon the submission of a budget request by the President designating the amount needed as an emergency.

Funds will be used for public health emergencies, including such things as disease prevention activities by the Centers for Disease Control and Prevention and for the repair and renovation of community health centers and migrant health centers damaged by the Midwest floods, and mental health services, as well as for social service activities, including Older American Act programs.

The House provided $54,000,000 for the public health emergency fund. Since House action, a revised budget request has been received.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW-INCOME HOME ENERGY ASSISTANCE

The Committee urges the administration to release a portion of Low-Income Home Energy Assistance Program contingency funds to assist eligible individuals in flood-ravaged States. The fiscal year 1993 Labor, Health and Human Services, and Education appropriations legislation (Public Law 102–394) provided $595,200,000 on a nationwide basis for crisis intervention activities in emergencies such as the Midwest floods. These funds can be made available by declaration of the President of an emergency, in conjunction with submission to Congress of a formal budget request; no further congressional action is necessary.

Low-income home energy assistance funds can be used for such energy-related emergencies as reconnecting electrical service, and repair or replacement of air-conditioning, weatherization materials, water heaters, stoves, refrigerators, and furnace equipment. Eligibility is limited to households with incomes not exceeding the greater of an amount equal to 150 percent of the poverty level, or an amount equal to 60 percent of the State's median income; however, States may target assistance to poorer households by setting lower income eligibility levels. Households may also be eligible if one or more individuals is receiving aid to families with dependent children, supplemental security income payments, food stamps, or certain needs-tested veterans' and survivors' payments.

DEPARTMENT OF EDUCATION

IMPACT AID

1993 appropriation to date	$750,154,000
1993 supplemental estimate	70,000,000
House allowance	
Committee recommendation	70,000,000

The Committee recommends $70,000,000, the same as the President's request, for impact aid disaster assistance under section 7(a) of Public Law 81–874, for schools affected by the recent floods in the Midwest. These funds would be used to assist local school districts in the flood-damaged Midwestern States with any increased operating costs and lost revenues they may experience as a result of the flooding. The funds would only be used to the extent that the Secretary of Education determines need, based on applications from the local education agencies.

The funds would be available only after the President transmits to the Congress an official budget request designating the entire amount of the request as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

1993 appropriation to date	$7,887,109,000
1993 supplemental estimate	30,000,000
House allowance	
Committee recommendation	30,000,000

The Committee recommends an additional $30,000,000 for Federal Pell Grant Program awards, the same as the President's request. College financial aid officers have the authority to adjust award amounts to assist students who, because of the recent floods in the Midwest, lose income or documentation of income. In addition, authority is granted to permit the Secretary to reallocate unused Federal work-study or Federal Perkins loan funds to schools enrolling students affected by the floods.

The entire amount requested has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER V

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

OPERATING EXPENSES

1993 appropriation to date	$2,551,065,000

1993 supplemental estimate	10,000,000
House allowance	10,000,000
Committee recommendation	10,000,000

The Committee has provided $10,000,000 for operating expenses for the U.S. Coast Guard. The amount provided is the same as the President's request. These funds will be used to finance the incremental costs borne by the Coast Guard in responding to the emergency situation resulting from the Midwest floods. Such costs include the salaries and travel costs of reservists called to active duty, as well as expenditures for the repair of Coast Guard facilities damaged by the floods, including Group Upper Mississippi River and Base St. Louis.

Consistent with the President's request, these funds are available upon enactment and will remain available until March 31, 1994. The House bill requires the submission of a subsequent budget request by the President for the Coast Guard to access these funds. Current estimates indicate that the Coast Guard will require at least $10,000,000 to cover the incremental costs resulting from the floods.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

1993 appropriation to date	$20,669,913,000
1993 supplemental estimate	175,000,000
House allowance	125,000,000
Committee recommendation	175,000,000

The Committee has included a total of $175,000,000 for the Federal Highway Administration's Emergency Relief Program. Of this amount, $75,000,000 is for the reimbursement of funds for disaster relief borrowed from the interstate discretionary category of the Federal-Aid Highway Program, $25,000,000 is for additional contract authority for the "Emergency relief" account, and $75,000,000 is provided on a contingency basis to become available upon receipt of a subsequent budget request from the President.

This provides additional funding for the Emergency Relief Program authorized by 23 U.S.C. 125. The Emergency Relief Program allows the Secretary of Transportation to provide immediate assistance to States whose highways and bridges are damaged during a natural disaster, such as the flooding in the Midwest.

The Committee has included bill language which makes these funds available until September 30, 1996.

FEDERAL RAILROAD ADMINISTRATION

LOCAL RAIL FREIGHT ASSISTANCE

1993 appropriation to date	$8,000,000
1993 supplemental estimate	16,000,000
House allowance	21,000,000
Committee recommendation	16,000,000

The Committee has provided $16,000,000 in emergency funding for the Local Rail Freight Assistance Program, $5,000,000 less than the amount provided by the House and the same as the President's request. Of the amount provided, $6,000,000 shall be available upon the submission of a subsequent budget request by the President.

Consistent with the President's request, eligibility for funds provided under this appropriation will be limited to those rail lines which carry 5 million gross ton miles or less per year. This eligibility criteria is consistent with the normal eligibility criteria for the Local Rail Freight Assistance Program. This funding will enable light density railroad lines to quickly restore rail service and assist in the economic recovery of the flooded regions of the Midwest. These light density lines are less likely to have flood insurance and/or internal capital resources to enable them to make necessary repairs. Without Federal assistance, restoration of rail service on these lines will be delayed, if it is undertaken at all. The Committee is concerned by reports of growing estimates of damage to such eligible rail lines, and requests the Secretary to continue to monitor such damage and, if necessary, request additional funds at a future time to accommodate these emergency needs.

The Committee has been made aware of other rail lines that have been severely damaged as a result of the flooding in the Midwest. However, many of these lines are owned by railroads that carry volumes hundreds, if not thousands, of times larger than those rail lines eligible for local rail freight assistance. Such railroads also have annual revenues and capital budgets that dwarf those of rail lines eligible for local rail freight assistance. Moreover, the estimated flood damage to these railroads appears to represent a very small percentage of their annual capital budgets. The Committee cannot support expanding eligibility for local rail freight assistance funds in the absence of a budget request and an affirmative statement of policy by the administration that Federal funding is necessary on an emergency basis in order to restore rail service over such lines.

CHAPTER VI

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOME INVESTMENT PARTNERSHIP PROGRAM

1993 appropriation to date	$1,182,500,000
1993 supplemental estimate	50,000,000
House allowance	100,000,000
Committee recommendation	50,000,000

The Committee recommends an appropriation of $50,000,000 for the HOME Investment Partnership Program for use only in areas impacted by the flooding in the Midwest. This amount reflects the amended supplemental budget request submitted by the administration to the Congress on July 29, 1993. The administration had originally requested a 1993 supplemental HOME appropriation of $100,000,000. More precise damage estimates, along with a desire to provide more flexibility for affected States through the community development block grant program, have prompted the revised administration estimate.

Given the severe damage which has resulted from current flooding in the Midwest, the Committee strongly urges the Department to award funds on an expedited basis. Thousands of homes have been destroyed as a result of this natural disaster, and the Committee believes timely allocation of these funds is an imperative.

Funds provided in this account have been made as a direct appropriation, consistent with the administration's request and action by the House. The Committee has added language requested by the administration declaring the entire amount as an emergency requirement pursuant to requirements in the Balanced Budget and Emergency Deficit Control Act of 1985.

The Committee has also included bill language, proposed by the administration, that waives any provision of any statute or regulation, except for those related to nondiscrimination and fair housing, the environment, and labor standards. This waiver authority is similar to that provided in other disaster relief appropriations for the HOME Program, and similar to that proposed by the House. The Committee notes that this language will give States and localities using these funds far greater flexibility in aiding the victims of flood damage.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

1993 appropriation to date	$4,040,000,000
1993 supplemental estimate	200,000,000
House allowance	53,000,000
Committee recommendation	200,000,000

The Committee recommends a direct appropriation of $200,000,000 for community development block grants for use only in areas impacted by the flooding in the Midwest.

The administration requested $200,000,000 in an amended supplemental budget request submitted to the Congress on July 29, 1993. The administration had originally requested a 1993 supplemental CDBG appropriation of $53,000,000, $50,000,000 of which would be provided as a contingency. The administration revised its estimate based upon more precise damage estimates and a desire to provide more flexibility for effected States in housing and economic development activities through CDBG.

Given the severe damage which has resulted from current flooding in the Midwest, the Committee strongly urges the Department to award funds on an expedited basis. Thousands of homes have been destroyed as a result of this natural disaster, and the Committee believes timely allocation of these funds is imperative.

Funds provided in this account have been made on a contingency basis, consistent with the administration's request. The House provided for these funds as a direct appropriation. The Committee has also added language requested by the administration declaring the entire amount as an emergency requirement pursuant to requirements in the Balanced Budget and Emergency Deficit Control Act of 1985.

The Committee has also included bill language, proposed by the administration, and included by the House in a slightly modified form, that waives any provision of any statute or regulation, except for those related to fair housing and nondiscrimination, the environment, and labor standards. This waiver authority is similar to that provided in other disaster relief appropriations for the CDBG program. The Committee notes that this language will give States and localities using these funds far greater flexibility in aiding the victims of flood damage.

The Committee has deleted language proposed by the House, but not requested by the administration, that limits the use of CDBG funds to repair of damaged facilities, or to restore interrupted services, that are essential to public health and safety. The Committee believes that this language is overly restrictive to the recovery efforts of states affected by recent floods.

The Committee has added bill language, requested by the administration, that earmarks $25,000,000 of the funds provided for Midwest flooding for disaster recovery planning grants. The Committee expects that the Department will ensure that States and localities that receive these funds use them in a coordinated fashion with other Federal and State resources for economic recovery and community revitalization activities.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

1993 appropriation to date	$1,318,965,000
1993 supplemental estimate	24,250,000
House allowance	
Committee recommendation	24,250,000

The Committee has provided $24,250,000 as requested by the administration for abatement, control, and compliance. These funds are provided to evaluate the initial and long-term environmental impacts associated with the flood and provide technical and other assistance for abatement and restoration activities.

Specifically, these funds will provide grants and assistance to States for identification, collection and disposal of pesticides; monitoring and assessing chemical and biological contaminants in the Mississippi and Missouri Rivers and their tributaries; monitoring and assessing water pollutant discharges and air pollution; wetlands restoration management; monitoring and assessing hazardous waste facilities; and for other purposes associated with the floods.

PROGRAM AND RESEARCH OPERATIONS

1993 appropriation to date	$823,607,000
1993 supplemental estimate	1,000,000
House allowance	
Committee recommendation	1,000,000

The Committee has provided $1,000,000, as requested by the administration, for program and research operations. These funds are for the hiring of temporary personnel to assess and monitor hazardous waste facilities and solid waste collection and disposal facilities; assess damage to wetlands and other waters; assist in flood plain management issues; evaluate the potential risk to human health and the environment; and support the emergency operations center coordination.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

1993 appropriation to date	$75,000,000
1993 supplemental estimate	8,000,000
House allowance	
Committee recommendation	8,000,000

The Committee recommends $8,000,000, as requested by the administration, for the leaking underground storage tank trust fund. These funds are provided to assess releases from underground storage tanks and to provide grants to States for cleanup actions at leaking underground storage tank sites in the flood-stricken States.

OILSPILL RESPONSE

1993 appropriation to date	$20,000,000
1993 supplemental estimate	700,000
House allowance	
Committee recommendation	700,000

The Committee has provided $700,000, as requested by the administration, to undertake spill prevention control and countermeasure inspections and to assist in oilspill responses and cleanup at oil sites in the flood-stricken States.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

1993 appropriation to date	$292,000,000
1993 supplemental estimate	1,138,000,000
1994 supplemental estimate	862,000,000
House allowance	815,000,000
Committee recommendation	2,000,000,000

The Committee has provided $2,000,000,000 for FEMA disaster relief activities, based on the administration's latest estimates of needs resulting from the floods which have ravaged many Midwestern States, as well as from earlier disasters such as Hurricane Andrew, Hurricane Iniki, and the Loma Prieta earthquake. Of the amount provided, $265,000,000 is provided in contingency funds, as requested by the administration.

In addition to the amount provided, the Committee notes that $143,000,000 remains available from an earlier appropriation (Public Law 102-229), contingent upon the President's declaration that such funds constitute an emergency requirement.

The Committee recognizes that the needs for disaster relief assistance associated with the Midwest floods may exceed the amount provided. Additional requirements will be addressed through the fiscal year 1994 appropriation.

The President has declared nine States major disasters resulting from the floods. It is estimated that approximately 47,000 dwellings have been damaged or destroyed by the floods, and more than 50,000 registrations for individual disaster assistance have been received to date.

The amount recommended will provide for such activities as the repair and rebuilding of public facilities, roads, and bridges; temporary housing; grants to individuals and families to compensate for the loss of personal property; and for other purposes.

In addition, of the amount provided, approximately $860,000,000 is needed to fund eligible activities associated with previously designated disasters in numerous States. In particular, approximately $85,000,000 is estimated to be needed for unfunded liabilities from Hurricane Hugo; $155,000,000 from the Loma Prieta earthquake; $435,000,000 from Hurricane Andrew, and $125,000,000 from Hurricane Iniki. The balance is estimated to be needed for unfunded liabilities in many other States.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

PROGRAMS AND ACTIVITIES

1993 appropriation to date	$73,000,000
1993 supplemental estimate	2,000,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee concurs with the House in recommending the requested additional $2,000,000 for the Commission on National and Community Service. This appropriation will go for activities of Youth Corps and other volunteer organizations in disaster relief and recovery efforts in the Midwest. Payments should be limited to activities connected with direct cleanup and humanitarian activities such as equipment, stipends, transportation, food, and lodging. In addition, the Committee has approved a reprogramming of an additional $1,125,000 for disaster relief activities from the Commission's fiscal year 1993 appropriations.

CHAPTER VII

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

U.S. FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

1993 appropriation to date	$81,387,000
1993 supplemental estimate	30,000,000
House allowance	26,354,000
Committee recommendation	30,000,000

The Committee recommends $30,000,000 in funding for emergency repairs and rehabilitation at national wildlife refuges and national fish hatcheries damaged by the severe flooding in the Mississippi River basin. This recommendation reflects the most recent information submitted by the President relative to damages at Fish and Wildlife Service units.

Among the National Wildlife refuges this appropriation would help are Mark Twain National Wildlife Refuge, IL; Squaw Creek National Wildlife Refuge, MO; Upper Mississippi River National Wildlife Refuge complex, MN-IA-IL-WI; Trempealeau National Wildlife Refuge, WI; Swan Lake National Wildlife Refuge, MO; DeSoto National Wildlife Refuge, IA; Minnesota Valley National Wildlife Refuge, MN; Illinois River National Wildlife Refuge, IL; Flint Hills National Wildlife Refuge, KS; Quivira National Wildlife Refuge, KS; and Kirwin National Wildlife Refuge, KS. Hatcheries and research centers are also affected, particularly the Genoa National Fish Hatchery, WI, and the Neosho National Fish Hatchery, MO; and the Northern Prairie Wildlife Research Center, ND.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

1993 appropriation to date	$36,617,000
1993 supplemental estimate	5,000,000
House allowance	
Committee recommendation	5,000,000

The Committee recommends $5,000,000, the same as the budget estimate, for historic preservation activities needed pursuant to the flooding in the Midwest. The funds will be used for emergency financial and technical assistance to historic properties. Funds will be used for emergency repairs, rehabilitation, stabilization, and other activities related to historic properties. It is the Committee's understanding that there are in excess of 2,160 national register sites in the counties affected by the flooding.

CONSTRUCTION

1993 appropriation to date	$229,831,000
1993 supplemental estimate	900,000
House allowance	850,000
Committee recommendation	900,000

The Committee has included $900,000 for emergency repairs and rehabilitation at National Park sites damaged by the severe flooding in the Mississippi River basin. Among the parks that have suffered damage are the Jefferson National Expansion Memorial in St. Louis, MO; George Washington Carver National Historic Site in Diamond, MO; Effigy Mounds National Monument in Harpers Ferry, IA; Pipestone National Monument in Pipestone, MN; Herbert Hoover National Historic Site in West Branch, IA; St. Croix National Scenic Riverway in St. Croix Falls, WI; and Fort Larned National Historic Site, KS.

U.S. GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

1993 appropriation to date	$576,748,000
1993 supplemental estimate	1,439,000
House allowance	851,000
Committee recommendation	1,439,000

The Committee recommends $1,439,000 for surveys, investigations, and research. The Committee's recommendation is based on updated damage estimates received from the Survey and includes funds for the Federal data collection and analysis program in water resources and for earthquake hazards reduction in geologic and mineral resource surveys and mapping.

In water resources, the Committee's recommendation is based on assessments of

damages in eight Midwestern States of water resources measuring equipment, extraordinary costs that include unfunded expenses for travel, overtime, and extra personnel, and to collect reconnaissance data on water quality conditions and basic data on the extent of the inundation. These data interpretations will be critical to other Federal, State, and local agencies in evaluating reconstruction and other remedial and protective options in the aftermath of the floods.

The Committee's recommendation for earthquake hazards reduction is to repair, salvage, or replace seismic stations in Missouri and Tennessee that were damaged by the flooding and that are needed to monitor the New Madrid earthquake zone.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

1993 appropriation to date	$1,342,385,000
1993 supplemental estimate	3,878,000
House allowance	.....
Committee recommendation	3,878,000

The Committee recommends $3,878,000 for repair, reconstruction, and replacement of facilities, agricultural land and structures repair, and repair and replacement of bridges and roads on Indian reservations. The funding will be used for clearing and repairing roads and bridges, fence repair on ranges, repair of flood plain devices and structures on waterways, and repair of Bureau-owned dams. Funds provided for facilities are for structure repair or replacement only and should not be used to replace furnishings.

CHAPTER VIII—GENERAL PROVISIONS

The Committee recommends language (section 801) that provides that no part of any appropriation contained in the bill shall remain available for obligation beyond the current fiscal year unless expressly so provided therein.

The Committee has deleted a legislative provision proposed by the House. It is described in chapter IV, earlier in this statement.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL

House Doc.	Department or activity	Supplemental estimate	House allowance	Senate Committee recommendation	Senate Committee recommendation compared with (+ or −)	
					Supplemental estimate	House allowance
	FISCAL YEAR 1993 SUPPLEMENTAL APPROPRIATIONS FOR MIDWEST FLOOD RELIEF					
	CHAPTER I					
	DEPARTMENT OF AGRICULTURE					
	Production, Processing, and Marketing					
103–	Extension service	$3,500,000	.....	$3,500,000	.....	+$3,500,000
	Commodity Credit Corporation					
103–116						
103–	Disaster payments	1,050,000,000	$850,000,000	1,050,000,000	.....	+200,000,000
103–116	Contingency appropriations	300,000,000	300,000,000	300,000,000	.....	.....
	Total, Commodity Credit Corporation	1,350,000,000	1,150,000,000	1,350,000,000	.....	+200,000,000
	Soil Conservation Service					
103–116						
103–	Watershed and flood prevention operations	35,000,000	25,000,000	35,000,000	.....	+10,000,000
103–	Contingency appropriations	25,000,000	.....	25,000,000	.....	+25,000,000
	Total, Soil Conservation Service	60,000,000	25,000,000	60,000,000	.....	+35,000,000
	Agricultural Stabilization and Conservation Service					
103–116						
103–	Emergency conservation program	30,000,000	20,000,000	30,000,000	.....	+10,000,000
103–	Salaries and expenses	12,000,000	.....	12,000,000	.....	+12,000,000
	Total, Agricultural Stablization and Conservation Service	42,000,000	20,000,000	42,000,000	.....	+22,000,000
	Farmers Home Administration					
	Rural Housing Insurance Fund Program account:					
103–	Housing repair loans	(15,000,000)	.....	(15,000,000)	.....	(+15,000,000)
103–	Subsidy	5,985,000	.....	5,985,000	.....	+5,985,000
	Agricultural Credit Insurance Fund Program account:					
103–	Soil and water loans	(7,000,000)	.....	(7,000,000)	.....	(+7,000,000)
103–	Subsidy	1,284,500	.....	1,284,000	−$500	+1,284,000
103–	Emergency disaster loans	(80,000,000)	.....	(80,000,000)	.....	(+80,000,000)
103–	Subsidy	20,504,000	.....	20,504,000	.....	+20,504,000
	Rural Development Insurance Fund Program account:					
	Industrial development loans: Guaranteed:					
103–	Loan level	(50,000,000)	.....	(50,000,000)	.....	(+50,000,000)
103–	Contingency loan level	(50,000,000)	.....	(50,000,000)	.....	(+50,000,000)
103–	Loan. subsidy	2,705,000	.....	2,705,000	.....	+2,705,000
103–	Contingency loan subsidy	2,705,000	.....	2,705,000	.....	+2,705,000
103–	Very low-income housing repair grants	15,000,000	.....	15,000,000	.....	+15,000,000
103–	Emergency community water assistance grants	20,000,000	.....	20,000,000	.....	+20,000,000
103–	Contingency appropriations	30,000,000	.....	30,000,000	.....	+30,000,000
	Total, chapter I:					
	New budget (obligational) authority	1,553,683,500	1,195,000,000	1,553,683,000	−500	+358,683,000
	Appropriations	(1,195,978,500)	(895,000,000)	(1,195,978,000)	(−500)	(+300,978,000)
	Contingency appropriations	(357,705,000)	(300,000,000)	(357,705,000)	.....	(+57,705,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

House Doc.	Department or activity	Supplemental estimate	House allowance	Senate Committee recommendation	Senate Committee recommendation compared with (+ or −)	
					Supplemental estimate	House allowance
	(Guaranteed loan authorization)	(100,000,000)		(100,000,000)		(+100,000,000)
	(Direct loan authorization)	(102,000,000)		(102,000,000)		(+102,000,000)
	CHAPTER II					
	DEPARTMENT OF COMMERCE					
	Economic Development Administration					
103–	Economic development assistance programs	100,000,000		100,000,000		+100,000,000
103–116						
103–	Contingency appropriations		100,000,000			−100,000,000
	Total, Economic Development Administration	100,000,000	100,000,000	100,000,000		
	National Oceanic and Atmospheric Administration					
103–	Operations, research, and facilities	1,000,000	1,000,000	1,000,000		
	Total, Department of Commerce	101,000,000	101,000,000	101,000,000		
	RELATED AGENCIES					
	Legal Services Corporation					
	Payment to the Legal Services Corporation		300,000			−300,000
	Small Business Administration					
	Disaster Loans Program account:					
103–116	Direct loans subsidy	60,000,000	60,000,000	60,000,000		
103–116	(Direct loan authorization)	(300,000,000)	(300,000,000)	(300,000,000)		
103–116	Administrative expenses	10,000,000	10,000,000	10,000,000		
	Total, Small Business Administration	70,000,000	70,000,000	70,000,000		
	Total, chapter II:					
	New budget (obligational) authority	171,000,000	171,300,000	171,000,000		−300,000
	Appropriations	(171,000,000)	(71,300,000)	(171,000,000)		(+99,700,000)
	Contingency appropriations		(100,000,000)			(−100,000,000)
	(Direct loan authorization)	(300,000,000)	(300,000,000)	(300,000,000)		
	CHAPTER III					
	DEPARTMENT OF DEFENSE—CIVIL					
	DEPARTMENT OF THE ARMY					
	Corps of Engineers—Civil					
103–116						
103–	Operation and maintenance, general	55,000,000	30,000,000	55,000,000		+25,000,000
103–116						
103–	Flood control and coastal emergencies	120,000,000	100,000,000	120,000,000		+20,000,000
103–116						
103–	Contingency appropriations	60,000,000	20,000,000	60,000,000		+40,000,000
	Total, chapter III:					
	New budget (obligational) authority	235,000,000	150,000,000	235,000,000		+85,000,000
	Appropriations	(175,000,000)	(130,000,000)	(175,000,000)		(+45,000,000)
	Contingency appropriations	(60,000,000)	(20,000,000)	(60,000,000)		(+40,000,000)
	CHAPTER IV					
	DEPARTMENT OF LABOR					
	Employment and Training Administration					
103–	Training and employment services	43,500,000		43,500,000		+43,500,000
	Contingency appropriations		43,500,000			−43,500,000
	Total, Department of Labor	43,500,000	43,500,000	43,500,000		
	DEPARTMENT OF HEALTH AND HUMAN SERVICES					
	Assistant Secretary for Health					
103–116						
103–	Public health emergency fund (contingency appropriations)		54,000,000			−54,000,000
	Office of the Secretary					
103–	Public health and social services emergency fund (contingency appropriations)	75,000,000		75,000,000		+75,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

House Doc.	Department or activity	Supplemental estimate	House allowance	Senate Committee recommendation	Senate Committee recommendation compared with (+ or −)	
					Supplemental estimate	House allowance
	Total, Department of Health and Human Services	75,000,000	54,000,000	75,000,000		+21,000,000
	DEPARTMENT OF EDUCATION					
103–	Impact aid (contingency appropriations)	70,000,000		70,000,000		+70,000,000
103–	Student financial assistance	30,000,000		30,000,000		+30,000,000
	Total, Department of Education	100,000,000		100,000,000		+100,000,000
	Total, chapter IV:					
	New budget (obligational) authority	218,500,000	97,500,000	218,500,000		+121,000,000
	Appropriations	(73,500,000)		(73,500,000)		(+73,500,000)
	Contingency appropriations	(145,000,000)	(97,500,000)	(145,000,000)		(+47,500,000)
	CHAPTER V					
	DEPARTMENT OF TRANSPORTATION					
	United States Coast Guard					
103–116						
103–	Operating expenses	10,000,000		10,000,000		+10,000,000
	Contingency appropriations		10,000,000			−10,000,000
	Total, United States Coast Guard	10,000,000	10,000,000	10,000,000		
	Federal Highway Administration					
103–116	Federal-aid highways (Highway Trust Fund)	100,000,000	75,000,000	100,000,000		+25,000,000
103–	Contingency appropriations	75,000,000	50,000,000	75,000,000		+25,000,000
	Total, Federal Highway Administration	175,000,000	125,000,000	175,000,000		+50,000,000
	Federal Railroad Administration					
103–	Local rail freight assistance	10,000,000		10,000,000		+10,000,000
103–	Contingency appropriations	6,000,000	21,000,000	6,000,000		−15,000,000
	Total, Federal Railroad Administration	16,000,000	21,000,000	16,000,000		−5,000,000
	Total, chapter V:					
	New budget (obligational) authority	201,000,000	156,000,000	201,000,000		+45,000,000
	Appropriations	(120,000,000)	(75,000,000)	(120,000,000)		(+45,000,000)
	Contingency appropriations	(81,000,000)	(81,000,000)	(81,000,000)		
	CHAPTER VI					
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
	Housing Programs					
103–	HOME Investment Partnerships Program	50,000,000	100,000,000	50,000,000		−50,000,000
103–116						
103–	Contingency appropriations					
	Community Planning and Development					
103–116						
103–	Community development grants	200,000,000	53,000,000	200,000,000		+147,000,000
103–116	Contingency appropriations					
	Total, community planning and development	200,000,000	53,000,000	200,000,000		+147,000,000
	Total, Department of Housing and Urban Development	250,000,000	153,000,000	250,000,000		+97,000,000
	INDEPENDENT AGENCIES					
	Commission on National and Community Service					
103–	Programs and activities	2,000,000	2,000,000	2,000,000		
	Environmental Protection Agency					
103–	Abatement, control, and compliance	24,250,000		24,250,000		+24,250,000
103–	Program and research operations	1,000,000		1,000,000		+1,000,000
103–	Leaking underground storage tank trust fund	8,000,000		8,000,000		+8,000,000
103–	Oilspill response	700,000		700,000		+700,000
	Total, Environmental Protection Agency	33,950,000		33,950,000		+33,950,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL—Continued

House Doc.	Department or activity	Supplemental estimate	House allowance	Senate Committee recommendation	Senate Committee recommendation compared with (+ or −)	
					Supplemental estimate	House allowance
	Federal Emergency Management Agency					
103–116						
103–	Disaster relief, fiscal year 1993	873,000,000	815,000,000	1,735,000,000	+862,000,000	+920,000,000
103–116						
103–	Contingency appropriations	265,000,000		265,000,000		+265,000,000
103–	Disaster relief, fiscal year 1994 emergency supplemental	862,000,000			−862,000,000	
	Total, Federal Emergency Management Agency	2,000,000,000	815,000,000	2,000,000,000		+1,185,000,000
	Total, chapter VI:					
	New budget (obligational) authority	2,285,950,000	970,000,000	2,285,950,000		+1,315,950,000
	Appropriations	(2,020,950,000)	(970,000,000)	(2,020,950,000)		(+1,050,950,000)
	Fiscal year 1993	(1,158,950,000)	(970,000,000)	(2,020,950,000)	(+862,000,000)	(+1,050,950,000)
	Fiscal year 1994	(862,000,000)			(−862,000,000)	
	Contingency appropriations	(265,000,000)		(265,000,000)		(+265,000,000)
	CHAPTER VII					
	DEPARTMENT OF THE INTERIOR					
	United States Fish and Wildlife Service					
103–	Construction and anadromous fish	30,000,000	26,354,000	30,000,000		+3,646,000
	National Park Service					
103–	Historic preservation fund	5,000,000		5,000,000		+5,000,000
103–	Construction	900,000	850,000	900,000		+50,000
	Total, National Park Service	5,900,000	850,000	5,900,000		+5,050,000
	United States Geological Survey					
103–	Surveys, investigations, and research	1,439,000	851,000	1,439,000		+588,000
	Bureau of Indian Affairs					
103–	Operation of Indian programs	3,878,000		3,878,000		+3,878,000
	Total, chapter VII:					
	New budget (obligational) authority	41,217,000	28,055,000	41,217,000		+13,162,000
	Appropriations	(41,217,000)	(28,055,000)	(41,217,000)		(+13,162,000)
	Contingency appropriations					
	Grand total, all titles:					
	New budget (obligational) authority	4,706,350,500	2,767,855,000	4,706,350,000	−500	+1,938,495,000
	Appropriations	(3,797,645,500)	(2,169,355,000)	(3,797,645,000)	(−500)	(+1,628,290,000)
	Fiscal year 1993	(2,935,645,500)	(2,169,355,000)	(3,797,645,000)	(+861,999,500)	(+1,628,290,000)
	Fiscal year 1994	(862,000,000)			(−862,000,000)	
	Contingency appropriations	(908,705,000)	(598,500,000)	(908,705,000)		(+310,205,000)
	Rescissions					
	(Guaranteed loan authorization)	(100,000,000)		(100,000,000)		(+100,000,000)
	(Direct loan authorization)	(402,000,000)	(300,000,000)	(402,000,000)		(+102,000,000)

THE PRESIDENT'S BUDGET AND TAX BILL

Mr. GRAMM. Mr. President, I want to say a little bit about the President's budget and tax bill which, as of this morning, the final meetings are underway in all of the dark and dingy corners of the Capitol where Democrats are meeting, planning their final strategy for the tax bill.

I would like to comment a little bit about that tax bill. I think one of the mistakes that we have made in this debate is that we have only focused on the President's campaign promise to cut $3 in spending for every $1 of taxes. Then in the State of the Union, it was $1 of spending cuts for every $1 of taxes. And then in the budget, it was $3.23 of taxes for every $1 of spending cuts. Eighty percent of those spending cuts are not promised until after the 1996 election.

The President says $500 billion of deficit reduction. The Congressional Budget Office, the judge and jury established by the President, says $355 billion, and we have got into this long debate. After hearing for 6 months about the broken promises, excess taxes, and phony spending cuts, my guess is the public has yawned and gone back to sleep or gone on about their business. While debating numbers and scoring and all the things the public does not care about, we have said relatively little about what the public does care about, and that is what I would like to address today.

I am struck by the fact that we seem determined to do exactly what we did in 1990 and make exactly the same mistake again. I remind my colleagues that in 1990 then-President George Bush entered into a budget summit with the Democrats. The President proposed an initial budget that cut spending. The Democrats proposed an alternative budget that raised taxes. Long negotiations occurred. A compromise was reached. The compromise promised that in return for $160 billion of taxes on the American public, Congress was going to cut spending twice as much.

Now, I want to note that that stands in stark contrast with the budget plan that we adopted that has $3.23 of taxes for every dollar of spending cut.

But the bottom line is this: Every penny of the $160 billion of taxes became law. Relatively little of the

spending cuts ended up being actually made. The tax increases depressed the economy and the net result was that the deficit went up and not down, because the economy went down.

Now, here we are 3 years later, going down exactly the same road.

Let me tell you why I am opposed to the Clinton budget and the Clinton tax plan. I am opposed to that budget and I am opposed to that tax plan because it is going to make the economy worse. The Clinton tax plan is a one-way ticket to a recession.

There is no way that you can raise income tax rates by over 30 percent on small businesses and family farms, on savers, investors, and job creation and not produce a situation where they save less, invest less, and create fewer jobs.

There is no way you can tax Social Security benefits, taking away the nest egg of people who saved all their lives to retire, and not affect the decisions of the next generation in terms of their decision about building up their own nest egg.

So, as a result of the bill that is being finalized today, people in the age group of 45 to 55 who are looking toward retirement will see that we are going to tax away the benefit of building up a modest nest egg. They will save less and enter retirement with less private retirement benefits in order to avoid the tax on their Social Security. The result will be that the tens of billions of dollars of investment capital that they would have saved and that would have created jobs will be lost.

Finally, this plan has another tax hike on gasoline. The net result will drive up the cost of people going about their daily business, such as driving their pickup trucks from Cleburne to Fort Worth in order to work and driving that same pickup home. We are lowering the living standards of those people and they are going to respond by spending less, by working less and, as a result, the economy is going to get weaker.

The problem with the President's program is not how you score it. The problem is it is going to put Americans out of work. The problem with the President's program is it is antisavings, antiinvestment, antijob creation, and it is going to mean that the economy is going to be hurt in the process.

What is the alternative? We have one last opportunity on the floor of the Senate. I want to urge my colleagues to vote down this tax bill. And let me tell you what I think we ought to do.

I think Republicans ought to get together—House and Senate Members—and go back and look at the substitute we offered in the Senate and the substitute that Republicans offered in the House. We ought to put together $500 billion of spending cuts. We ought to have it certified by the Congressional Budget Office so there is no debate about the numbers.

We ought to ask the President to do exactly the same thing. We ought to go down to the White House, put our proposal on the table and let him put his proposal on the table. Where the two overlap, we agree in advance to adopt it. Then he takes our proposal and takes half of our cuts. We take his proposal and take half of his cuts. We would all hate it, but the economy and the American people would love it.

If we did that, we would fundamentally change the pattern of spending in America. The economy would move forward; we would build confidence; people would save more, invest more, and create more jobs.

Mr. President, the problem with the President's budget is it does exactly the opposite of what he claims he wants to do.

What the President's budget will do is hurt the economy and put Americans out of work. That is why we ought not to be raising income taxes, taxing Social Security, taxing gasoline and, at the same time, not doing anything about the fundamental problem that spending continues to explode.

In fact, when we have this vote later this morning, we go back to the national service bill, which is going to spend $10.8 billion of brand new money. How can we increase spending, increase taxes, and promote prosperity in America?

Mr. President, I do not believe that can be done. I do not think it has ever been done. Republicans, working with Democrats, tried to do it in 1990. Surely, we can learn from our failures, learn from our experience. Let us not replicate an experiment that produced a recession.

This bill is much worse than the 1990 bill, and, as a result, it is going to hurt the economy a lot more. It is going to put more people out of work, and one of those people is going to be Bill Clinton.

So it seems to me the logical thing to do is to cut spending first. That is what I think we ought to do. I think the American people want us to do it. The American people do not believe that, if we raise all these taxes, we will ultimately cut the spending we promise. And there is good reason they do not believe it—because we have not done it.

THE PRESIDENT'S TAX BILL

Mr. DOLE. Mr. President, I just wanted to call the attention to my colleagues, and anybody else who may read the RECORD or who may be listening, to the fact that we have had a number of companies support the President's so-called economic package, the tax bill: General Motors, IBM, Procter & Gamble, Hughes Aircraft, General Electric, Delta Air Lines, Westinghouse Electric, Tenneco, BP America, and Tektronix.

This group of companies has announced layoffs of 177,551 people. These are the big companies in America that are only going to pay a 35-percent rate. They are not the small companies in America that are going to have their taxes raised from 31 to 45 percent.

I think this was unusually good information from the NFIB, the National Federation of Independent Businesses, because they point out on page 2—and I will ask that the entire document be printed in the RECORD—that:

From 1987–1992, firms with 19 or fewer employees accounted for 78 percent of all new jobs created.

So all these big companies come to town and endorse the President's tax package. They are only going to pay a 1-percent increase. The small businessmen and small businesswomen are going to pay a 13 or 14 percent tax increase.

Firms with fewer than 100 employees accounted for virtually all jobs created.

So all these big companies—and I wish them well; I am not hostile to big companies. But I think when they line up to support the President's package, it is because they got more fairly treated. The small businessmen and small businesswomen have not been listened to, and they are going to get zapped. These are the middle-class Americans getting their taxes raised again.

From 1988–1990, small firms created an astounding 4 million net new jobs against a loss in large firms of 500,000.

So it is the small businessmen and small businesswomen who are creating the jobs.

I ask unanimous consent that the statement from the National Federation of Independent Businesses be printed in the RECORD. I think it demonstrates who is getting hit with this big tax bill that President Clinton wants to cram down their throats.

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

TAX FAIRNESS?

When debate on the tax bill began, the issue was jobs. The Administration and Congress both recognized that true economic health hinges on job creation. However, the budget reconciliation bill seems to punish businesses creating jobs and reward firms laying off workers.

On May 25, 1993, fifty large companies wrote a letter to Congress in support of the tax provisions of the reconciliation bill. They had reason to be pleased. The House-passed bill raised the top corporate rate from 34% to only 35%. Yet many of these same corporations have spent most of the last year in the business of job elimination, not job creation. Take a look at the facts—

	Announced layoffs
Companies supporting tax bill:	
General Motors	74,000
IBM	65,000
Procter & Gamble	13,000

	Announced layoffs
Hughes Aircraft	9,000
General Electric	6,300
Delta Air Lines	3,836
Westinghouse Electric	3,000
Tenneco	1,000
BP America	1,575
Tektronix	800
Total jobs lost	177,511

Fortunately, these significant layoffs by big businesses have not been able to overshadow the incredible job growth in small businesses over the last few years. Compare the job losses reported by large firms to the job growth statistics found among smaller ones:

From 1987–1992, firms with 19 or fewer employees accounted for 78% of all new jobs created.

Firms with fewer than 100 employees accounted for virtually all jobs created.

From 1988–1990, small firms created an astounding 4 million net new jobs against a loss in large firms of 500,000.

In the first nine months of 1992, small business-dominated industries created 171,000 jobs compared to a loss of 347,200 jobs in large business-dominated industries.

Unfortunately, the very businesses that are creating these new jobs are the ones that will be hit by the higher individual tax rates in the reconciliation bill.

The fastest growing 5–10% of small firms are responsible for the vast majority of new jobs created between 1987–1992. These businesses are being rewarded with an increase in their top rate from 31% to almost 45%, while their larger competitors' rate is virtually unchanged.

If you combine the increased tax rates in the 1990 budget agreement with those likely to result from this reconciliation package, the rates of these fast growing, job creating firms will have increased 60 percent over 3 years. On the other hand, rates have gone up only 3% for the largest, most stagnant firms.

If the purpose of the reconciliation bill is to create jobs, why does it shift the tax burden from the job eliminators to the job creators?

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Wednesday, June 28, 1993, the Federal debt stood at $4,348,145,703,496.26; this means that, on a per capita basis, every man, woman, and child in America owes $16,928.14 as his or her share of the Federal debt. There may be some Americans who will want to check on the big-spending records of their Senators and Congressman.

IN SUPPORT OF DR. JOYCELYN ELDERS TO BECOME U.S. SURGEON GENERAL

Mr. CHAFEE. Mr. President, on July 13, I met with President Clinton's nominee for Surgeon General of the United States, Dr. Joycelyn Elders, and was impressed with her credentials, commitment and forthright approach. I commend President Clinton's choice of Dr. Elders and believe she will serve us well as the Nation's chief public health advocate.

If confirmed by the Senate, I believe Dr. Elders will be a vigorous, high-profile Surgeon General in the mold of Dr. Everett Koop. I have faith that Dr. Elders—a frank and independent person—will not shy away from the difficult public health challenges and issues confronting our Nation. To the contrary, she has the energy and wherewithal to advance responsible and sensible public health policies for this country.

She has had a distinguished career in public service and in medicine as director of the Arkansas Department of Health and as a pediatric endocrinologist. Her strong advocacy for women's and children's health issues, in particular, demonstrates a sense of priority and sensitivity with which I strongly identify. Her commitment to increasing child immunization rates and emphasizing primary care in Arkansas are just a few of the ways in which she has distinguished her leadership abilities.

Dr. Elders enjoys broad support within the public health community, including that of Dr. Barbara DeBuono, director of the Rhode Island Department of Health, whose views I greatly respect and admire. The recipient of an honorary degree from Yale University, Dr. Elders has won endorsements from numerous national organizations, including the American Heart Association, the American Cancer Society, the American Medical Association, the Society for Pediatric Research, the American Pediatric Society, the National Association for Public Health Policy, and the National Association of Children's Hospitals.

I am pleased the Senate Labor and Human Resources Committee today favorably reported Dr. Elders' nomination by a vote of 13 to 4. While some of my colleagues may continue to have philosophical differences with the nominee, it is my hope we can proceed to debate and vote on the Elders' nomination before the August recess.

At that time, I urge my colleagues to vote "yes" to confirm Dr. Elders. She has a wealth of experience, and the tough-mindedness to effectively advocate the public health interests of all our citizens.

FIGHTING IN LEBANON

Mr. PELL. Mr. President, I am deeply concerned by the violence occurring in Israel and Lebanon. The exchange of fire between Israel and the extremist groups based in Lebanon has disrupted stability, resulted in scores of casualties, and caused major disruptions in the lives of civilians in both Israel and Lebanon. As Katyusha rockets rain down on northern Israel, Israeli civilians have been forced to leave their homes or seek refuge in bomb shelters; as Israeli warplanes bomb Lebanese targets in retaliation, more than 100,000 Lebanese have fled to the north.

In the heat of battle, it cannot be forgotten how this vicious cycle of violence began. While I do not condone Israeli attacks on civilian targets, the responsibility for starting the fighting rests with the extremist groups in Lebanon, such as Hezbollah. These groups reject the Middle East peace talks and are seeking to scuttle any chance of peace among Israel and its neighbors.

The fighting has caused Lebanese and Syrian Government officials to question the utility of continuing the peace talks. There is cruel irony in the present situation: Should the peace talks fail, the governments of the region will suffer and the extremists will have achieved their aims.

The President and the Secretary of State have called for restraint and have underscored their commitment to the Middle East peace talks. I support their view that peace talks represent the world's best hope for eliminating the root cause of violence in the Middle East, and I applaud the Secretary for reaffirming his intent to visit the region.

At the same time, both Syria and Lebanon, as partners in the peace talks, need to understand that the extremists are undermining their interests. The longer Hezbollah is given free rein in southern Lebanon, the more the world must question the motives of Syria and the strength of the Lebanese Government.

Mr. President, the violence must be stopped before the peace process is derailed. The United States can best help by continuing to appeal to both reason and restraint. My hope is that all of the interested parties will listen.

MESSAGE TO THE UNITED STATES CONGRESS FROM TSIGANENKO NICKOLAY KUSMITCH, UKRANIAN FARMER

Mr. CRAIG. Mr. President, during the month of April, an Idaho farmer and his wife, Wynne and Maxine Henderson, had the unique opportunity to travel to Ukraine as participants with Volunteers in Overseas Cooperative Assistance [VOCA].

As many of my colleagues know, VOCA was founded in 1970 and provides technical assistance to cooperatives, private agribusinesses, and government agencies abroad. The work of VOCA is accomplished through short-term technical assistance by U.S. volunteer specialists recruited nationwide. These volunteers work on individual projects throughout the world. During fiscal year 1991, more than 150 volunteers carried out 210 projects in 33 countries. Areas receiving assistance include developing countries, the emerging democracies of Central and Eastern Europe, the Baltics, and the Commonwealth of Independent States. As I stated, the Hendersons, from Lewiston, ID, recently participated in the VOCA Program in Ukraine.

While in Ukraine, the Hendersons worked with Ukrainian agriculture in an attempt to contribute to its movement from a collective system to a structure of private, individual ownership of land, similar to that in the United States. The transition in the newly independent republics is difficult and sometimes very frustrating both for those making the transition as well as those attempting to contribute positively to that transition.

While in Ukraine, Wynne was contacted by a local farmer, Tsiganenko Nickolay Kusmitch, and asked that a letter be delivered to the Congress on his behalf.

The text of this letter is as follows:

This application from Tsiganenko Nickolay Kusmitch, private farmer of Ukraine, asks Members of the United States Congress to discuss my motion of the farmers movement in Ukraine to consider a connection with private farmers personally. In Ukraine 80 percent of our Government officers are former communists who want to break the private farmer development in Ukraine. When you give assistance to Ukraine farmers through government it will go to the gangster structure of the former communism. It is my task to show private farming is better than the collective system. The Communists support collective farming because it was a good life for former Communists. Your assistance to Ukraine private farmers will promote a higher development of agriculture and direct Ukraine to a democracy of high level like the United States.

The content of that letter has a very clear and pertinent message for the Congress. I would sincerely ask that every Senator read and give careful consideration to the message Mr. Kusmitch has given us.

IRAQI BOMBING PUTS KURDS AT RISK

Mr. PELL. Mr. President, Iraq is once again in the forefront of the news. Yesterday, United States warplanes fired missiles on Iraqi antiaircraft positions, possibly after being illuminated by Iraqi radar. Earlier, an Iraqi plan to assassinate President Bush while he was in Kuwait was confirmed by United States intelligence, and the United States retaliated with missile attacks on Iraqi intelligence headquarters.

Yet Saddam Hussein again seems to be pounding his chest in Baghdad; unfortunately, the Iraqi Kurds could well be his next victims.

In March 1991, in the aftermath of the Persian Gulf war, the Kurds rose up against Saddam Hussein to reclaim a centuries-old homeland which had been rendered unlivable by his regime. In April, a renewed Iraqi onslaught sent the Kurds fleeing for cover to the mountainous Turkish border region. Thousands of Kurds, and especially those most vulnerable, the children, perished from hunger and exposure.

As it had in years past, the suffering of the Kurds attracted the attention of the world. This time, under U.S. leadership, the allied coalition operation Provide Comfort supplied the Kurds with the protection and provisions needed to begin to rebuild and recover. It has provided for the protection of human rights and the growth of democracy in Iraqi Kurdistan, including the first truly democratic elections in the Middle East, aside from those in Israel.

But these are desperate days for the Kurds. Despite the allied air cover, there are now more than 100,000 Iraqi troops massed south of the allied-protected safe haven. Since July 1991, when the last of the allied ground troops pulled out, AID workers have been the only expatriate ground presence. Attacks directed against them have prompted one group, Doctors Without Borders, to withdraw its physicians to protest the Iraqi Government's determination to get rid of all independent witnesses.

The face-off with Saddam continues today, north of the 36th parallel. It is possible that Saddam Hussein will attack the Kurds in response to the recent flareups. It is evident that his forces are willing and able to do so.

President Clinton's authorization of the Tomahawk missile attack on Baghdad sent the right message to Saddam. The next message should say to Saddam, in terms he understands, that our commitment to the democratic aspirations of the Kurds is real, not merely a sympathetic reaction to television images, and not postwar bravado.

When the Security Council meets in September, the United States should seek, as a matter of priority, a United Nations resolution that would reaffirm protection of Iraq's Kurdish and other minorities.

The United States with its coalition partners should seek an indefinite extension of the present air cover, and provide financial assistance to enable the Kurds to defend themselves and AID workers.

We need also look for ways to assist the economic development of Iraqi Kurdistan which, like Saddam's Iraq, remains subject to the United Nations embargo. A selective lifting of the economic sanctions for Iraqi Kurdistan would increase its access to world markets, open a way round Saddam's worsening internal blockade, and provide some insurance against Saddam's sabotage of the Kurdish economy.

Mr. President, the Senate Foreign Relations Committee recently approved the Foreign Relations Authorization Act, fiscal years 1994 and 1995. That act contains an amendment I authored concerning United States policy toward the Iraqi Kurds; in my view it outlines the type of long-term, cost-term, cost-effective approach that we should adopt towards Kurdistan. I ask unanimous consent that the amendment be printed in the RECORD at this point.

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

Sec. 709. UNITED STATES POLICY CONCERNING IRAQI KURDISTAN.

(a) FINDINGS.—The Congress finds that—

(1) The international community, pursuant to United Nations Security Council Resolution 688, and with the continuation of Operation Provide Comfort, support the protection of Iraq's Kurdish and other ethnic and religious minorities;

(2) Notwithstanding the international community's resolve, certain areas of Iraqi Kurdistan remain at risk of an Iraqi invasion;

(3) Despite the threat of an Iraqi invasion, the Kurds, along with other minority ethnic and religious groups, have initiated a drive toward self-sufficiency, including—

(A) holding free and fair democratic elections to establish a parliament, which supports Iraq's territorial integrity and the transition to a unified, democratic Iraq,

(B) planning for an administering public services,

(C) reconstructing and rehabilitating the basic infrastructure of Iraqi Kurdistan, and

(D) establishing unified police and security forces;

(4) Despite the provision of substantial international humanitarian assistance, and despite the fact that the United Nations blockade on Iraq contains exceptions for humanitarian-related items, the inhabitants of Iraqi Kurdistan still face difficulties because of an internal Iraqi government blockade;

(5) the Kurds and other ethnic and religious minorities, with appropriate additional support, would have the ability to meet their goal of self-sufficiency and move beyond the need for international assistance.

(b) POLICY.—It is the sense of the Congress that the President should—

(1) take steps to encourage the United Nations Security Council—

(A) to reaffirm support for the protection of all Iraqi Kurdish and other minorities pursuant to Security Council Resolution 688, and

(B) to consider lifting selectively the United Nations embargo on the areas under the administration of the democratically-elected leadership of Iraqi Kurdistan, subject to the verifiable conditions that—

(i) the inhabitants of such areas do not conduct trade with the Iraqi regime, and

(ii) the partial lifting of the embargo will not materially assist the Iraqi regime,

(2) Continue to advocate the transition to a unified, democratic Iraq,

(3) take steps to design a multilateral assistance program for the people of Iraqi Kurdistan that supports their drive for self-sufficiency through the provision of—

(A) financial and technical aid through the democratically-elected Kurdish administration to enable the exploitation of natural resources such as oil, and

(B) financial assistance to support the legitimate self-defense and security needs of the people of Iraqi Kurdistan, and

(4) take steps to intensify discussions with the Government of Turkey, whose support and cooperation in the protection of the people of Iraqi Kurdistan is critical, to ensure that the stability of both Turkey and the entire region are enhanced by the measures taken under this section.

The Senator from California is recognized.

THE NATIONAL GUARD AND BORDER PATROL

Mrs. BOXER. Mr. President, just 2 days ago, President Clinton announced his immigration plan. In my opinion, that plan represents a significant step forward in our efforts to curb illegal immigration.

The Clinton plan includes adding 600 agents to the Border Patrol. This is good, but more needs to be done. I realize it will not be easy, because it is very expensive to add Border Patrol agents to the border. Therefore, I believe it is very important to find cost-effective methods to increase the Border Patrol.

Mr. President, about 3 million people illegally cross the United States-Mexico border each year, and of those, 200,000 to 300,000 become permanent inhabitants. California absorbs about 100,000 each and every year, about one-half of all the illegal immigrants in our Nation. It is a burden.

According to the California Department of Finance, there are an estimated 1.3 million undocumented immigrants living in California. The State auditor general estimates that undocumented immigrants cost State and local governments about $3 billion per year in medical care, education, and other costs.

Los Angeles County estimates that it spent $308 million on public services and $368 million to teach the children of the estimated 700,000 illegal residents. San Diego County says it spent $206 million for its 200,000 illegal residents.

I want to be very clear. I support legal immigration and family reunification. I have fought for asylum for those from the former Soviet Union, Central America, the Caribbean, China, and many other nations. I truly believe that America is a great Nation of diversity, but if we have laws, we must enforce them. If we have millions crossing our borders illegally, we must act or our laws are a sham.

I believe the American Government owes a solution for this problem to the people of California and the other States that bear the burden of illegal immigration. Mr. President, this burden falls on about six States.

In this time of dwindling resources, I know we must be creative when we come up with new ideas to help fund the Border Patrol. That is why I have suggested to Attorney General Janet Reno that we consider using the National Guard under civilian control to supplement our Border Patrol. Let me repeat that: The National Guard, under civilian control, not under military control, is well-trained and well-equipped to supplement our Border Patrol.

The National Guard has come to the aid of many Americans during times of need. The Guard has assisted during earthquakes, forest fires, school integration, and floods. The Guard can be called into service in behalf of the Federal Government or an individual State. And the National Guard not only participates in specific events, it does get involved in ongoing situations.

For example, in Puerto Rico, the Guard is being used to assist local police in that island's fight against crime and, Mr. President, from what I can tell, it is receiving rave reviews. It seems to me if the Guard can assist in antidrug programs and anticrime efforts, then it should be able to assist our woefully understaffed Border Patrol.

Along the California border, there are 600 Border Patrol officers, with only 200, Mr. President, in any given shift. Experts tell me we need another 500 Border Patrol agents in California. Hopefully, President Clinton's efforts will yield us about 200 additional Border Patrol officers, but we will still be short of agents.

Therefore, I believe this is the time to be creative. Controlling our borders is a must. The National Guard is a viable resource which could augment Border Patrol efforts.

There are over 500,000 members of the Guard nationally, some 22,000 in California alone, and I believe a portion of them can be used to protect our borders.

Here is an example of what it could mean to California's Border Patrol if they receive the support from the National Guard. Let us say, out of the 22,000 National Guardsmen and women, we tap 4,000 for this duty. Assuming an 8-hour day, this would be a total of 480,000 hours, the equivalent of 240 full-time Border Patrol guards.

Mr. President, people who join the National Guard are trained every weekend, and they give 15 days of service a year. Therefore, we can tap them and increase the Border Patrol to the level of about 240 full-time officers. They would be fully trained and equipped.

In closing, Mr. President, I understand the strong feelings that surround this issue. I know personally of our history as a Nation of immigrants. I would simply say that we will always be a Nation of immigrants and that we will always be, I hope, a place of safe harbor from the despots and the tyrannical leaders of the world.

But we must recognize that in order to continue to be this kind of America, a beacon of hope for the future, we must enforce our laws so that legal immigration for the people who patiently wait will not be closed off as a reaction to the inability to control our borders.

Thank you very much, Mr. President. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN], is recognized.

SARAJEVO ON THE ABYSS: THE FATAL MOMENT BEFORE BOSNIA'S TRAGEDY AND THE WEST'S SHAME ARE COMPLETE

• Mr. BIDEN. Mr. President, for 15 months, beginning in the spring of 1992, the outside world has stood idle as the Republic of Bosnia—a nation of Europe upon which the United Nations had only recently bestowed formal recognition as a sovereign state—has been attacked, raped, and dismembered by forces under the control and direction of neighboring governments.

In witness to these crimes—crimes of a kind that were tried at Nuremburg a half century ago—the West has orchestrated its institutions in a symphony of evasion, disguising its abject neglect with two forms of involvement, both supposedly benign, but each with a grotesque result:

One Western contribution has been a flow of humanitarian aid, sporadically delivered by military forces equipped with ample supplies of courage but without a United Nations mandate even to deliver food effectively, much less to perform a serious military role—indeed, military forces whose own safety in Bosnia has been used as reason to defer the real military action so plainly needed.

The West's second contribution has been a diplomatic intervention under the formal auspices of the United Nations and the European Community—an intervention which has enunciated but then compromised principle at every turn and which, by the proffering of ill-conceived solutions by ill-chosen mediators, has served to incite rather than to ameliorate the hostilities.

The atrocities that have spread like a plague across the ancient villages and cities of Bosnia are far from unique in history, but they do occupy a unique place in history. The West's tolerance of these horrific events, when we had the means but not the will to react, represents a historic abdication of responsibility.

At a crucial moment—on the threshold of a new era, combining real promise of broader cooperation in world affairs with real danger of widening ethnic conflict, and requiring therefore that we seize our opportunity to fortify institutions of world order—the leading governments of the West, our own included, have been accomplices in a calculated act of negligence. With no small measure of dishonor, we have forsaken our solemn duty to uphold the most fundamental principal of collective security: the defense of a recognized nation against aggression.

We have thereby humiliated ourselves and discredited the very institutions upon which we must depend for the protection of international principle and law in the post-cold-war era.

Today, as we await the fall of Sarajevo, Bosnia's tragedy and our own shame are near complete.

In defense of that city, the Armed Forces of the Bosnian Government, multiethnic in composition and battling on in a heart-rending but vain expectation of Western support, have offered a valiant resistance that has, in recent days, begun to dissolve under the onslaught of rebel forces actively supported by the Governments of Serbia and Croatia.

This aggression the West has not only permitted but abetted through an ill-conceived arms embargo that has helped to guarantee Bosnia's defenselessness. Historians will surely marvel that we have added to our crimes of indifference this special measure of perversity.

Now, as the Serb strangulation of Sarajevo nears its finish under the clinical eye of Cable News Network, we have reached a decisive juncture. The question confronting us, though few wish to face it, is whether, at this final moment of possibility, we will marshal sufficient Western power to salvage that national capital and the principle—the powerful, ennobling principle of multiethnic harmony—it represents.

This, though it is still feasible, I do not expect. More likely, I fear, is that we will again reach deep into the well of rationalization, offering more pathetic excuses to justify a failure of leadership and a continuing inertia that is both cruel and contrary to our own interests.

Although I rise in the Senate today with little optimism that Western governments will summon the strength and wisdom to act, I assert nonetheless—with a conviction as strong as any I have felt in more than two decades in the U.S. Senate—that we will continue, even at this late date, to have the means to act with positive effect, if only we could muster the vision.

Given the extremes of Serb bestiality, decency alone might be motive enough. But I stress vision over decency in recognition that America and its allies lack the resources and energy to answer each and every humanitarian plea. What we cannot afford to ignore—as a century of war and cold war has demonstrated time and again—are fundamental threats to international order.

I submit that the rape of Bosnia, and the rabid Serb fascism behind it, pose such a threat, and that our accommodation and appeasement of this aggression will yield a dire strategic result, in the Balkans and beyond.

Not only have we yielded momentum to the madness fostered by Slobodan Milosevic in the Balkan region, where we face—and indeed have fostered—the specter of spreading conflict. Not only have we have weakened—and indeed disgraced—the institutions of international security at a moment when those principles and organizations might have been strengthened in preparation for a new era of global challenge.

Our mistake is even more profound. We have established a dire precedent and transmitted a resounding message, a message that will be heard amidst every ethnic conflict and by every active and aspiring despot worldwide: Use force—use force blatantly—for the end of the cold war does not mean the onset of a new order; it means chaos.

Let us consider what name to give the new strategic doctrine that says this: Though led by a single and admired superpower of unchallenged military strength, the world community lacks the will and the nerve to respond even to the most heinous of atrocities and to uphold any rule of law.

This week the President of Bosnia has been summoned to Geneva by the apostles of appeasement to meet with the practitioners of aggression. He has, in the state of helplessness we have imposed on him, agreed to negotiate. The goal of President Izetbegovic's interlocutors—appeaser and aggressor alike—is the partition of Bosnia.

Some, who wish for a quick end to this complex diplomatic problem, as they persist in calling a relentless succession of Serb barbarisms, will hope for a prompt capitulation by President Izetbegovic. But any such hope finds little basis in practicality, and certainly none in honor.

I will grant, though I am reluctant to do so, that the partition of Bosnia may now be inevitable. But I do not believe that President Izetbegovic holds a position—vis-a-vis his adversaries and vis-a-vis his supporters—to conduct a satisfactory negotiation leading even to that sad result.

It is my belief that Bosnia's leader can acquire such a position—such a basis for negotiated settlement—only if the West acts now to defend the capital of Bosnia and to make clear that it will uphold Bosnia's claim on some modicum—some essential degree of fairness—in the outcome of this brutal war.

Unless we are prepared to take that action, I fear and predict that far more carnage lies ahead—for the ambitions of the aggressors and the minimal demands of those whom President Izetbegovic represents will find no reconciliation at the negotiating table. The aggressors will see no reason to yield any of their territorial gains. The victims will see no reason to accept a settlement placing them inside diminished boundaries within which they would still have no guarantee of protection against renewed aggression and indeed extermination.

Accordingly, even those who wish for partition and a quick end—and I do not count myself among them—must face the question of bringing Western power to bear: First, to save Sarajevo; then to uphold the settlement that saving Sarajevo may make possible.

In advocating today that we still can and should act to salvage Sarajevo, I intend first to describe the current situation in the city as I understand it. I shall then outline what I regard as a realistic plan for action.

I shall propose a plan:

To lift the siege of Sarajevo;

To increase humanitarian aid and ensure public health; and

To develop a diplomatic climate under which the three factions can resume negotiations on a final settlement for the war.

The plan I shall propose has three characteristics that should anchor it squarely in the realm of feasibility, assuming we can find the fortitude to contemplate serious action:

First, this plan lies within the framework of stated United Nations and American policy, and requires few if any United States ground troops in Bosnia.

Second, it relies on U.N. Protection Forces already in place, augmented by existing allied military assets that are now in the area, and does not require that additional troops be sent by other nations.

Third, it meets the concerns of our allies, principally Britain and France, about the safety of their troops.

Before describing this plan, I shall turn to the current situation.

I. THE CURRENT SITUATION

In recent days, having held Sarajevo under siege for more than a year, Serb forces have launched a major attack on the southern approach to the city at Mount Igman. As a consequence, the very existence of Sarajevo is now in the balance. The question of Sarajevo's survival holds critical implications:

First, leaving aside the question of Bosnia's survival as a nation, if there is to be any Moslem entity in Bosnia, the city must be saved. Without the preservation of Sarajevo, the Bosnian Presidency will lack the basis it needs to negotiate with the Serbs and Croats and to carry out that negotiation without being overthrown by the Bosnian military, which will resist any compromise of Bosnia's national integrity as a multicultural state, a principle for which it has fought with extraordinary tenacity.

Second, the loss of Sarajevo would intensify an already terrible humanitarian debacle with staggering new costs: thousands of deaths from disease and hunger, hundreds of thousands of people displaced and trying to evacuate the city under fire, new refugee flows of upward of a half million people trying to reach neighboring countries—all at a time when the system of international humanitarian support is failing to maintain even the previous level of sustenance for the war's victims.

The recent Serb embargo on energy and fuel supplies to Sarajevo demonstrated that Serb forces, unopposed and possessing a monopoly of heavy

weapons, can blockade the city and sharply escalate the already pervasive human suffering among the population. After a year of debilitating siege, the blockade also severely damaged the viability of the multiethnic government and undermined its ability to control the situation inside the city.

Serb forces blockaded the city for two reasons. The immediate objective was to pressure the Bosnian Government into acquiescing to the newly unveiled, though long-intended Milosevic plan for partitioning the country. The border Serb objective remains what it has been: to destroy, by steady erosion, the very symbol of Bosnia's multiethnic society. Sarajevo is by far the most important of the few remaining places where Bosnia's multiethnic society has not yet collapsed into factional fighting.

For the moment, international pressure and a transitory Serb fear of U.S. intervention have succeeded in inducing the Serbs to lift the blockade. But Serb leaders can be expected to resume it once they have reassured themselves that the West lacks the will to intervene.

Meanwhile, the morale of Sarajevo's citizenry—strong almost beyond belief but not beyond human limits—is declining as hope of Western intervention evaporate and fears of ethnic conflict within the city begin to grow.

Food supplies in Sarajevo are today more precarious than ever before. Despite recent pledges that would increase the UNHCR's funding by $100 million, food aid actually reaching Sarajevo is in short supply. The main problem, not surprisingly, is delivery; ground convoys have been reduced to a trickle by the recent fighting between the Bosnian Army and Croatian HVO forces along the main supply routes from the west. The city thus depends on airlift. Under the present rules, dictated by the Serbs to a compliant United Nations, only one plane is permitted on the ground at a time and the window for each is 20 minutes. This limits the flights to a maximum of about 24 per day, though in practice it is fewer. At an average of only 10 tons per plane, 240 tons of food supplies reach the city each day, meeting only 20 percent of the need.

The recent blockade, meanwhile, has weakened U.N. control on the distribution inside the city. With only a skeleton expatriate staff, UNHCR has turned over all humanitarian supplies to the Bosnian Government for distribution. Because the UNHCR warehouse staff, truck drivers, and distribution monitors are local staff drawn from all three ethnic groups, they are subject to many pressures to permit diversions of relief supplies. These pressures come from friends and relatives and, more ominously, from the organized mafias now emerging amidst the social wreckage of that once-civilized capital. Diversions, which were limited to 5 percent as the year began, now exceed 20 percent, a figure that increases sharply when supplies decrease or are blocked.

The public health situation is equally precarious. The supply of drinking water is controlled by the Serbs, who in practical effect have their hand on the spigot. Water sources in the city are few, depend on unsure supplies of diesel fuel, or are highly polluted. During the recent embargo, water-borne diseases multiplied twentyfold in just the 5 days that all pumps were out of operation. To ensure that vulnerable groups receive clear water, UNHCR has resorted to flying bottled water into the city. Other public health risks include undisposed sewage and uncollected garbage. Sanitation workers attempting to relieve the hazard are subject to Serb shelling and snipers.

Each cutoff of public utilities or reduction of relief supplies diminishes the already declining political order. Relief supplies are the main currency in the city and thus are the targets of every powerful element, including the army, corrupt officials, mafias, and individual criminals. When supplies are restricted, thefts and attacks increase.

The rise of incivility within the city is now taking a heavy toll on a heretofore stalwart public morale. The recent cold snap reminded Sarajevo's citizens that winter approaches. Throughout the city, Sarajevans are depressed about having to face yet another icy season and worried about how and where to find heating fuel. New refugees have added to the burden on the humanitarian agencies and winterization supplies are in short supply. UNHCR, meanwhile, is critically short of funds and making few preparations.

Remarkably, in this increasingly desperate and chaotic environment, there is little public support for surrendering. Recent reports from refugees of what has occurred in the east vis-a-vis the Serbs, and in central Bosnia vis-a-vis the Croats, may actually have hardened the resistance of Sarajevo's citizens.

Nor, among Sarajevans, has the sense of the multiethnic society yet broken down. The majority remain adamant that they want to preserve a mixed cultural society. At the same time, a siege mentality has definitely set in, with people likely to look out for themselves and their immediate family than to support common actions.

Despite ritualistic statements by the Clinton administration and other governments calling for the preservation of a multiethnic society within the prewar borders of Bosnia, the 10-member Bosnian Presidency no longer expects that the West will intervene militarily to enforce a rollback of Serb conquests. Their hopes betrayed, Bosnia's leaders are therefore becoming resigned to a de facto partition of the country. The Presidency now anticipates mounting Western pressure upon them to accept a ceasefire in place, then to negotiate a settlement that will either partition the country or divide it so as to render partition inevitable.

Even however, if the leaders in Bosnia's Presidency accept this outcome in concept, practical obstacles will affect their ability to deal with the Serbs. The most important is the Bosnian Army, comprised mostly of refugees and victims of ethnic cleansing. Having been through that once and losing all, they will not easily stop fighting. The army's leaders will be reluctant to concede any of Bosnia's territory in principle, must less to surrender any strategic points they have been able to hold or capture, or to place the security of Bosnian loyalists in the hands of U.N. peacekeeping forces that have heretofore consistently shied from the assertion of Western power.

President Izetbegovic knows that if he agrees to concessions under current circumstances, the army may well move to overthrow him. Indeed, it is likely that neither Izetbegovic nor the full Presidency can sustain a real negotiation unless the West provides a convincing demonstration of its willingness to enforce any settlement.

What this means is straightforward: it means deploying military forces with a real military mandate—not under the current rules of engagement but under a mandate similar to that in place in northern Iraq. The U.N. military mandate in support of a Bosnian settlement must authorize the use of all means necessary to protect those endangered by violations.

II. A PLAN FOR WESTERN ACTION

Under these conditions, lifting the siege of Sarajevo is the key to bringing about a negotiated settlement of the Bosnian conflict. Defending Sarajevo's viability will not only prevent massive humanitarian suffering and chaos; it will afford Bosnia's Presidency the necessary political base from which to negotiate what now appears to be the inevitable partitioning of the country. A negotiated and enforced partition, while a living reproach to the West's failure to defend Bosnia's integrity, would at least offer sanctuary to Bosnian loyalists and some check on a wider war in the Balkans.

If the West at this late date is to act to stop the killing in and around Sarajevo—and to provide the basic goods, services, and energy that permit the city to function—we must be prepared to impose a rollback of Serb chokeholds on the humanitarian operation in Sarajevo, and to meet any further Serb interference with military force.

A feasible plan would involve two phases: First, establishing control of access to the city; second, intensifying the humanitarian relief operation.

FIRST PHASE: ESTABLISHING CONTROL OF ACCESS TO SARAJEVO

Military ultimatum: First, the United Nations should issue a military ultimatum to the Serbs, requiring that they immediately:

Withdraw and park all heavy weapons—specifically, tanks, artillery, and heavy mortars—at specified locations out of range of Sarajevo;

Withdraw all ground forces from the crests of the hills around Sarajevo and, in the west, to a point 5 kilometers from the airport; and

Withdraw all antiaircraft systems along the western flight path to the Sarajevo airport.

Any forces, and any heavy weapons, not moved within 48 hours should be destroyed by allied air forces using the close air support [CAS] assets that the allies have now put in place.

Monitoring and protection of air cargo: Second, once the pullback is accomplished, regular forces of the U.N. Protection Force [UNPROFOR] should take full control of Sarajevo airport by expelling the Serb liaison officers, disbanding any Serb checkpoints on the route to the city, and actively patrolling the airport road to guard against the laying of mines. All cargoes flown into the city could be checked by the Serbs at the staging areas in Italy or Germany to verify that military supplies were not placed among the humanitarian cargo. But the United Nations, not the Serbs, would determine the definition of humanitarian cargo.

Third, interpositional force: Third, an interpositional detachment of UNPROFOR troops should promptly occupy the area between the Bosnian and Serbian forces, taking positions on the crests of the hills surrounding the city and between the airport and the Serbian pullback lines in the west. This detachment would be a small, composite unit of specialists drawn from the existing UNPROFOR and augmented with technicians and equipment from NATO countries. It would have two functions:

The principal function would be to set up, monitor, and if necessary coordinate the enforcement of, a Positive Control Area—a PCA—around Sarajevo from which all heavy weapons would be banned. The PCA would be sufficiently wide that tanks, artillery, and large mortars could not shell the city; and

A secondary function, also conducive to negotiation, would be to prevent Bosnian Presidency forces from taking military advantage of the Serb pullback.

Of critical importance is empowering the interpositional detachment to call in air strikes if necessary to enforce the PCA and, if attacked, to use air support from CAS assets on-ready in the area.

SECOND PHASE: INTENSIFYING HUMANITARIAN RELIEF

Upon the establishment of U.N. military control over Sarajevo and the access thereto, the humanitarian program should be expanded with several measures:

Utilities: First, the Serbs should be told to turn over, intact, all utilities in the immediate vicinity of Sarajevo, including the water facilities at Bacevo, Moimiolo, and Gerbavica and other sites currently in their hands. UNPROFOR troops should move into the areas to take control and prevent the Serbs from destroying them.

Food and medicine: Second, the allies should immediately begin a major airlift into the city to build up food stocks and other humanitarian supplies.

Water: Third, relief agencies should take urgent action to improve the water situation in the city by:

Accelerating the installation of the UNHCR and International Red Cross emergency water pumps and purification systems;

Distributing in-home water purification systems; and

Ensuring the availability of adequate electrical energy to power the city's water pumps.

Prepare for winter heating: Fourth, UNPROFOR should support relief agencies in beginning preparation for winter heating by requiring the Serbs and the Croatian HVO to cooperate in the delivery of coal to the city.

III. POLITICAL AND MILITARY CONSIDERATIONS

Let me turn now to a discussion of the political and military considerations surrounding adoption and implementation of this plan to save Sarajevo.

As to the politics of reaching agreement and providing necessary personnel, the plan I have described falls well within the framework of existing U.N. Security Council resolutions and actions already taken. The interpositional detachment can be drawn from existing forces already in the city and could be formed by an order from the U.N.'s Bosnia-Herzegovina Command—known as BH Command. The forward air controllers [FAC's] that have recently been trained by the United States can be assigned to augment the group, giving it the needed capability to call in retaliatory strikes from the air.

The plan, moreover, requires no American ground troops, although I believe the United States could increase the plan's acceptability to the allies by stating our readiness to assign U.S. FAC's to the interpositional detachment.

As to ease of execution, obviously we cannot be certain that, when faced with a U.N. ultimatum, the Serbs would withdraw their heavy weapons without a fight. But we do have reason to expect that they will yield. That reason is Serb conduct throughout the course of the last 15 months.

As correspondent John Burns of the New York Times recently put it, we have witnessed "an almost arithmetical correlation between American leaders' statements * * * and the behavior of Serb forces." The Serbs have shown a very careful determination to avoid conflict with Western forces, led by the United States.

If, upon the issuance of a U.N. ultimatum, the Serbs did not immediately comply, we should respond by using allied aircraft to initiate an intensive intimidation campaign—consisting first of close flyovers—to demonstrate the Serbs' vulnerability.

Those who oppose any American involvement in Bosnia have employed the old argument as to the inefficacy of air power alone and they will certainly scoff at the purported effect of flyovers. But this precise tactic was immensely effective only 2 years ago in northern Iraq when the United States forces acted to protect the Kurds. When the Iraqis had not withdrawn all their forces in compliance with allied instruction, General Shalikashvili ordered United States planes to put on an aerial show of force. The Iraqis began to withdraw immediately.

If, of course, the Serbs still failed to withdraw, allied aircraft should destroy sufficient numbers of their tanks and artillery pieces to convince them to pull back.

Once the Serb pullback was complete, allied forces would follow the normal rules of engagement; that is, to strike only to protect U.N. forces. Air strikes would only be necessary if the interpositional detachment were to come under fire.

To return for a moment to northern Iraq, a major lesson from Operation Provide Comfort was that in a humanitarian intervention, air power can play a decisive role. It was an effective force multiplier and an ever-present demonstration of allied resolve. In Bosnia, the Serbs simply do not know what we can actually see and do with our planes, and that level of doubt can be an immensely valuable factor in our favor. Once the initial phase is over, the number of planes on station could be reduced to a much smaller level.

A key to successful implementation of this plan is to give clear and precise instructions to the Serbs. Unlike a normal military campaign, we would want the Serbs to know each move we are going to make so that they do not misunderstand Western intentions or resolve.

A second essential is to let the Serbs know that we are intervening for humanitarian purposes, not to impose a particular settlement. We should make it clear that our purposes are to stop the killing and to create an atmosphere in which negotiation can take place.

In the implementation of this plan, it bears emphasis that timing is a key factor—and not only because of Sarajevo's dire plight. In terms of

weather, this is an excellent season for the effective use of air power. Favorable weather will continue to October, giving us 2 months to carry out the operation.

The political timing is also apt. By all reports, Serb leaders appear to be divided as to their objectives. Several, especially Milosevic, are reportedly concerned to stop the war now in order to retain a favorable situation. A demonstration of Western resolve, implying that wider intervention could follow, would give the Serb leadership a compelling incentive to halt further aggression and to curtail their ambitions in the final phase of negotiations.

Western action could have a similarly positive impact on the behavior of the Croatians. By protecting the symbol of multiethnic Bosnia, the West would give pause to President Tudjman and the HVO as they consider their new alliance with the Serbs and their future plans for the Krajina region of Croatia.

While it might reasonably be asked why the West should focus on Sarajevo, I believe the answer is plain. Sarajevo is both the capital and the symbol of Bosnia; if it falls, the country falls. By defending the city, the West—even if belatedly—would be coming to the defense of Bosnia's existence and underscoring our support for only the kind of settlement that offers some justice to all Bosnians.

As to the remainder of Bosnia and the plight of innocent Bosnians there—including those in the several safe areas the United Nations has done little to render safe—we cannot be certain. But there is reason to expect that a demonstration of Western resolve in one area—Sarajevo—will serve as a deterrent to Serb behavior throughout Bosnia. Once a Sarajevan security zone was established, the implied threat that the West would act to expand it, or replicate it elsewhere, should encourage the Serbs to desist further aggression in other zones, including the designated safe areas of Srebrenica, Tuzla, Bihac, Gorazde, and Zepa. To encourage this, allied flights in those and other areas should be intensified as soon as Sarajevo has been secured.

We must expect that some of our allies will object to this plan, claiming that it could put their forces at risk to Serb retaliation. But there are sound arguments against this objection.

First, this claim has always been an exaggeration. Few of UNPROFOR's forces outside of Sarajevo are posted in the immediate vicinity of the Serbs; they are convoy escorts and come into contact with the Serbs only when they are escorting. Most of their bases are in Bosnian Moslem areas where they are safe. With the opening of Sarajevo airport, convoy operations could be—as they already are, for all practical purposes—suspended. The forces could retire to bases in safe terrain and await the results of the Sarajevo operation. French troops in Sarajevo would, by definition, be protected under the plan.

The only places where retaliation might be possible would be in Srebrenica and Zepa, against Canadian forces. However, those areas are already designated as safe areas, and forces there are protected under U.N. rules of engagement. The initial ultimatum to the Serbs—our diplomats may want to call it a demarche—should include a warning that Serb military actions in those towns will meet a sharp response. In Gorazde, I should point out, there would be no increase in the risks to U.N. forces since they are already under Serb attack.

Second, the military situation has changed now that allied air forces, especially CAS, are based in the area. The planes already have a mandate to protect U.N. troops on the ground. If the Serbs engage UNPROFOR, they would be attacked by the air assets on station. In commencing decisive action to save Sarajevo, the allies should employ a continuous combination of combat air patrol at higher altitude and close air support at lower altitudes to deter Serb resistance.

Action to save Sarajevo should not be allowed to bog down on the issue of risk sharing—which the allies will be tempted to make synonymous with American ground forces. It should be pointed out that:

First, the scale is limited to the relatively small area of Sarajevo;

Second, air strikes would be ordered only in the event of Serb noncompliance; and

Third, such action would actually improve the situation of the French forces in Sarajevo, which are already subject to shelling.

We could, as I have stated, do more to respond to allied concerns for American participation. American military technicians and forward air controllers could be posted to the interpositional detachment, where the risks would be low but their presence would give visible sign of the U.S. commitment. Another option would be to send civilian contractors as we did in the initial phases of the Sinai disengagement monitoring in the 1970's. U.S. civilian technicians could, for example, be recruited to run the electronic monitoring systems for the interpositional force.

There are, in the plan I have described, several advantages bearing emphasis:

First, the plan builds on the safe-areas concept that the United Nations has already embraced. But whereas the United Nations has thus far lacked the will and resources to implement that concept fully, this plan constitutes a more limited and therefore more politically and militarily feasible implementation. Under this plan, at least at the outset, only one area—Sarajevo—would be actively protected with force.

Second, the plan is consistent with the policy the Clinton administration has publicly advocated; that is lift and strike, but to which it has given little real advocacy in the councils of the Western alliance. The plan to save Sarajevo requires far less commitment, fewer forces, and answers most of our allies concerns.

Third, the military situation and terrain in the vicinity of Sarajevo are ideal for the plan. The Serbs can be effectively attacked if they remain on the hill crests surrounding Sarajevo, and once they have pulled back even a short distance, their heavy weapons—even if Serb forces retain some in violation of the U.N. ultimatum—will, their ability to threaten Sarajevo, be largely neutrilized by distance and topography.

IV. CONCLUSION

Let me return now to a broader perspective—concerning what is at stake in our decision as to whether to save Sarajevo.

In recent days, looking back over the past 15 months, the Foreign Minister of Bosnia. Haris Silajdzic, said this about the Western response to the crimes perpetrated in and against his nation:

> Two hundred thousand people killed, 2 million uprooted, children maimed, rape camps; it all seems to have been forgotten already. That is the tragedy—the indifference of those who could do something about it.

That is the issue today—in this capital and the capitals of our major allies. The issue is not feasibility. The problem is not the invincibility of our potential adversary. The obstacle is not the hopelessness of the cause of the victims of this barbaric aggression. The issue is indifference—a damnable indifference on the part of Western governments and their leaders.

Over the months as this war and its suffering have unfolded before our eyes, the glib response of those who would do nothing has been that we must not conduct policy on the basis of what appears on CNN. They say that we must weigh our national interests carefully and not be swayed by the emotions of the moment. My response is that it is they who are guilty of a CNN policy. They are afraid to act—to meet the demands of this critical challenge for American foreign policy—because they believe that the American people will waver in their support of a robust policy at the first sign of an American casualty.

This truly is a policy of despair—a policy of the fainthearted—because our leaders lack the courage to chart a brave course.

We speak today, with an excessive triumphalism, about our wisdom in creating and sustaining NATO through the years of the cold war. We speak as if this were an act of surpassing wisdom and determination in which we all shared. The facts are otherwise. NATO was created because of the courage and

leadership of one man: Harry S. Truman, who had the fortitude in 1948 to save Berlin.

In taking that historic step, Truman did not take a public opinion poll; if he had, any such poll would have told him not to do it. He did not listen to the several military advisers who told him why it couldn't be done. He knew that it must be done—or West Germany, and then all Western Europe, would lose the confidence to defend itself, individually or jointly. He knew that it was necessary to galvanize this action, and he knew there was only one nation that could do so. So, under his lead, we did it.

Truman understood that the President—and the Congress—must lead, not follow. He understood what Edmund Burke had meant when he said that your elected representative owes you his judgment; when he sacrifices that judgment to popular opinion, he does not serve you, he betrays you.

Because of President Truman's brave leadership and historic judgment, Berlin was saved and NATO was born. The word went forth that the United States was prepared to stand with, and to lead, its allies in a determined and prolonged act of collective defense—to engage and cohere in policies and institutions of collective security.

Today we face a lesser challenge—but somehow we have lacked the mettle to meet it. We face an aggressor one-fortieth the size of the Soviet Union, without nuclear weapons and with its economy a shambles. We have allies far stronger than those that Truman sought to fortify. We have unquestioned military superiority. We have well-established institutions of collective action, institutions we should now be seeking to energize as we enter a new era and approach a new millennium. And what have we done with this challenge and these assets?

We have turned our backs on aggression. We have turned our backs on atrocity. We have turned our backs on conscience. And we have turned our backs on our own self-interest in building a new world order.

Instead of building the institutions of collective security, we have given a new meaning to collective security. As defined by this generation of leaders, collective security means arranging to blame one another for inaction, so that everyone has an excuse. It does not mean standing together; it means hiding together. It does not mean decisive joint action to defend principle; it means collective muddle to sacrifice principle—and the innocent victims of an aggression that real institutions of collective security would stand to defend.

We have failed. I hold our allies responsible. I hold the Bush administration responsible. And I hold the Clinton administration responsible.

With little thought to anything other than today's rationalization, we are—by our consciousness and unconscionable inaction—undermining the principle of collective security, and we will live to regret it. In its place, we are building a legacy of collective shame.

As we do, what is most terrifying is the lack of guilt. Our debate over Bosnia, such as it is, is occurring in an almost perfect moral vacuum. We are told this is a difficult diplomatic problem—a use of words that George Orwell would have appreciated and scorned. We are told that we are doing all we can consistent with our national interest—an obfuscation meant to imply that some larger strategic rationale requires us to be morally comatose.

Leave aside those who actually commit atrocities, and our policy on Bosnia is as close as foreign policy can come to sin. We have the knowledge of what is occurring. We have the means to do something about it. We have ample experience to understand the significance of not acting. And yet we are failing to act to avert a human—and geopolitical—catastrophe.

We now have only days left to salvage some measure of decency and honor from the rubble of policy heretofor. I urge the Clinton administration to summon itself to action—not to unilateralism, but to a form of leadership that demands to be followed because the common interest is at stake and the common interest can be served.

As President John Kennedy declared himself a Berliner, I beseech President Bill Clinton to declare himself a citizen of Sarajevo. It is not too late. Let us join with our allies—now—to save that city and its brave people, who, in their determination to live in multiethnic peace, symbolize what we should cherish and whose defense we should regard as a duty not to be forsaken.●

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, let me compliment the Senator from Delaware for his sincere, dedicated, well-thought-out statement, and I hope he will not miss the train.

Mr. BIDEN. I have served here for 20 years, and I do not think I held the Senate one other time.

I truly appreciate the indulgence of my friend from Kentucky.

Mr. FORD. It was worth it.

Mr. BIDEN. I thank him for his kind comments. The Senator can see I feel strongly about it.

Mr. FORD. I say to my friend from Delaware it was worth it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Edwin R. Thomas, one of his secretaries.

MESSAGES FROM THE HOUSE

At 12:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1964. An act to authorize appropriations for the Maritime Administration for fiscal year 1994, and for other purposes.

The message also announced that the Speaker announces the following modification in the appointment of conferees on H.R. 2264, to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994:

The final panel from the Committee on Ways and Means is also appointed for the consideration of sections 13601–02 and 13604–705 of the House bill.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1964. An act to authorize appropriations for the Maritime Administration for fiscal year 1994, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1312. A communication from the Principal Deputy Comptroller, Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM—222. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 5

"Whereas, According to data collected during a Post Enumeration Survey (PES) of the 1990 census coverage, the population of many major urban areas of the nation was undercounted; and

"Whereas, In California, the PES data indicates the population of urban areas was significantly undercounted by nearly one million persons including, but not limited to, the population of the Cities of Fremont, Fresno, Fullerton, Glendale, Huntington Beach, Inglewood, Long Beach, Los Angeles, Modesto, Oakland, Oxnard, Pasadena, Riverside, Sacramento, Salinas, San Bernardino, San Diego, San Jose, Santa Ana, Stockton, and Vallejo; the Counties of Alameda, Butte, Contra Costa, Fresno, Humboldt, Imperial, Kern, Los Angeles, and Merced; and the City and County of San Francisco; and

"Whereas, On July 15, 1991, the decision was made by former Secretary of Commerce

Robert Mosbacher not to adjust the 1990 census data, regardless of the failure of the census to count an estimated 5.3 million people nationwide; and

"Whereas, Subsequently, the Committee on Adjustment of Postcensal Estimates of the Bureau of the Census determined through exhaustive research that adjustment of intercensal population estimates would improve the accuracy of those estimates; and

"Whereas, Intercensal estimates are not prepared for census tracts and blocks, or used for redistricting, but instead are produced by the Bureau of the Census for use in allocating federal formula program funds to states, counties, and cities, and as the determinant of the volume cap for tax-exempt private activity bonds issued within a state; and

"Whereas, Due to the use of unadjusted population estimates, the State of California and its largest cities and counties will not receive a fair and equitable share of federal formula program funds, resulting in the loss of up to $150,000,000 to the City of Los Angeles alone; and

"Whereas, On January 4, 1993, the Director of the Census announced her decision not to adjust intercensal population estimates to correct for the undercount of population; now, therefore be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the Secretary of Commerce to reverse the decision of the Director of the Census, and to direct the Bureau of the Census to adjust the intercensal population estimates, consistent with the Post Enumeration Survey data, using the most appropriate statistical methodology; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-223. A concurrent resolution adopted by the Legislature of the State of North Dakota; to the Committee on Governmental Affairs.

"SENATE CONCURRENT RESOLUTION NO. 4028

"Whereas, the Congress of the United States continues to mandate programs that impose costs on states and local governments; and

"Whereas, states and local governments have limited resources and are struggling to provide for the needs of their citizens; and

"Whereas, imposing the costs of congressional programs upon states and political subdivisions is a pusillanimous means for Congress to avoid its responsibility to deal with federal budget issues; and

"Whereas, Congress must face the same difficult decisions faced by state and local governments, that if a program is not worthy of full funding perhaps it is not worthy of enactment;

"Now, therefore, be it *Resolved by the Senate of North Dakota, the House of Representatives concurring therein:*

"That the Fifty-third Legislative Assembly of North Dakota urges the Congress of the United States to either refrain from imposing the cost of programs on state and local governments or to appropriate sufficient federal moneys to pay the full costs of programs mandated by Congress; and

"Be it further *Resolved,* That copies of this resolution be forwarded by the Secretary of State to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the North Dakota Congressional Delegation."

POM-224. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Governmental Affairs.

"SENATE JOINT MEMORIAL 8021

"Whereas, The Congress has enacted comprehensive national legislation protecting public health and preserving the environment, including such measures as the Safe Drinking Water Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substance Control Act, and the Federal Insecticide, Fungicide, and Rodenticide Act; and

"Whereas, The provisions of each of these measures and other similar measures envision a partnership and shared responsibility between the federal government and state governments for assuring that their objectives be attained and that they are best administered at the state or local level where the issues, problems, and remedies under each are best understood; and

"Whereas, The State of Washington has formally accepted the delegation of responsibility from the federal government for administration and enforcement under these and other similar measures; and

"Whereas, Each of these programs contains an express or implied promise of adequate federal resources to the states to assure full implementation of their requirements; and

"Whereas, The costs to the states of administering each of these programs is escalating rapidly, while the level of support and funding to the states from the federal government for these programs is either declining or failing to keep pace with the cost of new requirements being imposed at the federal level; and

"Whereas, It is incumbent upon the federal government, as part of its shared responsibility with state and local governments to assure safe drinking water; clean air; clean rivers, streams, and aquifers; safe disposal of contaminants; and the general health and safety of the citizens of this country, to provide adequate resources to the states that have accepted delegation of responsibility for enforcement of these federal programs with the understanding that the delegation includes a commitment by the federal government to provide such resources; and

"Whereas, The Washington State Department of Health has determined that it will need to increase its budget by eight million six hundred thousand dollars over the next two years simply to provide adequate staff to carry out its mandates under the Safe Drinking Water Act administered by the Environmental Protection Agency; and

"Whereas, The Washington State Department of Health conducted a Public Water System Needs Assessment in 1992, which concluded that the state's water systems will need to incur additional capital expenditures of six hundred eighty-six million dollars between 1993 and 1999 because of new requirements under the Safe Drinking Water Act, including millions of dollars for surface water treatment and other Safe Drinking Water Act requirements in 1993; and

"Whereas, The costs incurred under these Safe Drinking Water Act requirements, both to the Department of Health and to the state's public water systems, may not be related to significant risks to the public health that exist in the State of Washington; and

"Whereas, The federal government is proposing only modest increases in the federal grant to the State of Washington and other states for administering the Safe Drinking Water Act, in the face of major increases in costs to the state; and

"Whereas, The federal government currently has no comprehensive and large-scale program of financial assistance to public water systems that will be forced to incur major capital costs for Safe Drinking Water Act compliance; and

"Whereas, States are faced with major increased costs for administering many of these federal programs simultaneously and in the face of increasingly difficult fiscal situations; and

"Whereas, The State of Washington is currently facing a budget deficit of approximately one and one-half billion to two billion dollars in a total budget of approximately sixteen billion dollars, which is forcing many painful decisions on budget cuts and tax or other revenue increases; and

"Whereas, Both the Safe Drinking Water Act and the Clean Water Act are due for federal reauthorization; and

"Whereas, The National Governors Conference in 1992 adopted an eight-point program with regard to reauthorization of the Safe Drinking Water Act that addresses many of these issues; and

"Whereas, President Clinton has announced a program to provide both short-term and long-term investment into the infrastructure of this country, including its water systems; and

"Whereas, The State of Washington desires to maintain the high quality of its waters and environment and the high level of health of its citizens;

"Now, therefore, Your Memorialists respectfully pray that the President and the Congress of the United States:

"(1) Review in a comprehensive fashion the Safe Drinking Water Act and other similar measures to assess the impact upon the states, local governments, and others subject to their provisions of the costs of complying with them and whether such costs are justified by the risk being addressed;

"(2) Substantially increase to the states the amount of resources necessary to implement federal programs, so that the state financial burden is restored to the levels and proportions originally contemplated under such legislation;

"(3) Study and implement, where appropriate, modified delegation and enforcement of federal laws to reflect the state's ability to implement and enforce all or a portion of such federal laws;

"(4) Require that federal agencies accept the responsibility for implementation and enforcement of federal laws where the federal government has not provided adequate resources for the state to do so;

"(5) Reauthorize the Safe Drinking Water Act, incorporating the recommendations of the National Governors Conference with regard to additional flexibility in state enforcement, increased efficiency in the operation of the Safe Drinking Water Act program, and increased resources to the states and water systems to meet the Safe Drinking Water Act requirements; and

"(6) Make substantial funding available, for both 1993 and long-term needs, to water systems that are required to make capital improvements to their systems because of provisions of the Safe Drinking Water Act.

"*Be it resolved,* That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–225. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Indian Affairs.

"HOUSE CONCURRENT RESOLUTION 272

"Whereas, in 1796, King Kamehameha I unified the Hawaiian Islands; and

"Whereas, prior to the arrival of the first westerners, the Hawaiian people led self-sufficient lives in a communal lifestyle without any outside influences, and their traditions and practices flourished; and

"Whereas, in 1851, King Kamehameha III was forced to place Hawaii under the protection of the United States to prevent other foreign powers from gaining dominance, despite the enactment of a constitution in 1840 to assert the kingdom's independence; and

"Whereas, by the 1880s, the westerners had begun to assert economic and political dominance over the Hawaiian Islands, and in 1887, King Kalakaua was forced to accept the "Bayonet Constitution" which substituted the power of the westerners for that of the king and barred many Hawaiians from voting; and

"Whereas, not satisfied with the Bayonet Constitution and seeking to annex Hawaii to the United States to strengthen American interests, the Americans, under the leadership of Lorrin Thurston, Sanford B. Dole, William A. Kenney, William R. Castle, and Dr. S.G. Tucker, formed the Annexation Club in the 1890s; and

"Whereas, upon ascension to the throne, Queen Liliuokalani threatened to proclaim another constitution to curb American influence and regain the power of the monarchy; and

"Whereas, on January 16, 1893, John L. Stevens, the United States Minister in Hawaii and a friend of those supporting annexation, ordered United States Marines to invade Honolulu under the pretext of protecting American citizens and their property; and

"Whereas, following the invasion, Stevens recognized a new provisional government even before the Queen had surrendered; and

"Whereas, the actions by the annexationists were condemned by President Cleveland's special envoy and ultimately the President himself as evidenced by the President's refusal to submit a treaty of annexation to the United States Senate; and

"Whereas, instead, the new provisional government established the Republic of Hawaii until the passage of the Newlands Resolution, which formally annexed Hawaii to the United States on July 7, 1898; and

"Whereas, the Newlands Resolution also ceded approximately 1.8 million acres of all lands owned by the Republic of Hawaii to the United States and proclaimed that all revenue from these lands (except those used for civil, military, or naval purposes of the United States or assigned for use of the local government) was to be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes; and

"Whereas, on April 30, 1900, Congress passed the Organic Act, which vested the legal title of the lands in the United States but gave the Territory of Hawaii administrative control and use of the lands, or, in essence, equitable title; and

"Whereas, the Organic Act also gave the United States both legal and equitable title to lands set aside by presidential executive order; and

"Whereas, on July 9, 1921, the United States Congress enacted the Hawaiian Homes Commission Act of 1920 (HHCA), which set aside approximately 203,500 acres of the ceded lands for homesteads for Hawaiians with fifty percent or more Hawaiian blood; and

"Whereas, the HHCA was passed to help halt the dramatic decimation and demoralization among Hawaiians because of their inability to assimilate into western society; and

"Whereas, Hawaii became a state in 1959, and Sections 4 and 5 of the Admission Act mandated that the title, management, and disposition of the Hawaiian home lands pass from the United States to the State of Hawaii; and

"Whereas, until statehood, the United States served as sole trustee of the Hawaiian home lands; and

"Whereas, although the United States transferred legal title to the ceded lands and the Hawaiian home lands pursuant to Section 4 and 5 of the Admission Act, the Federal Government continues to exercise significant authority over the HHCA, by requiring that all land exchanges be approved by the Secretary of the Interior and any amendments to the Act be approved by Congress; and

"Whereas, in addition, the United States must approve any State amendments to the HHCA which may alter the qualifications of beneficiaries or decrease their benefits; and

"Whereas, court decisions issued at State and Federal levels have confirmed that the United States has retained a portion of its trust responsibilities to the Hawaiians; and

"Whereas, because of this trust relationship, the United States has an ongoing legal responsibility to Hawaiians, and a political and legal relationship has been established to bind Hawaiians together as a group and distinguish them from other racially- and culturally-tied groups; and

"Whereas, because the United States has an ongoing legal responsibility to Hawaiians and a political and legal relationship is established by this responsibility, Hawaiians justifiably deserve to be formally recognized by the United States in a manner similar to Native Americans; and

"Whereas, the Federal Government provides entitlements in different forms and for many purposes to "Native Americans"; and

"Whereas, although Hawaiians have received a few entitlements under a few Federal programs such as the Native Hawaiian Education Act, the failure of the United States to recognize Hawaiians in a manner similar to Native Americans continues to exclude Hawaiians from entitlements such as Federal housing assistance; now, therefore,

"*Be it resolved* by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring, That the President of the United States and the United States Congress are requested to formally recognize Hawaiians as the aboriginal, indigenous people of the Hawaiian Islands;

"*Be it further resolved*, that the United States is requested to formally recognize it has a political and legal relationship with Hawaiians, distinguishing them from other racially- and culturally-tied groups; and

"*Be it further resolved*, that the United States is requested to formally recognize that Hawaiians are eligible for any entitlements provided by the Federal Government to Native Americans; and

"*Be it further resolved*, that a certified copy of this Concurrent Resolution be transmitted to the President of the United States, all members of the United States Congress, and the United States Secretary of the Department of the Interior."

POM–226. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Indian Affairs.

"HOUSE CONCURRENT RESOLUTION 275

"Whereas, indigenous peoples are the original inhabitants of lands subjugated by colonial occupation; and

"Whereas, for centuries, indigenous peoples' special relationship to their land—an elemental symbiosis crucial to their survival—has been threatened by colonialists and the demands of others for living space, food, and resources; and

"Whereas, today, indigenous people are among the most disadvantaged groups on Earth; and

"Whereas, an estimated 300 million indigenous people live in over seventy countries, from the Arctic regions to the Amazon and Australia, including the native Hawaiians in the State of Hawaii; and

"Whereas, for historical and political reasons ranging from foreign conquests and colonization to the creation of nation-states, a large proportion of indigenous people have been forced to live impoverished and subordinated lives in their own lands, resulting in the deprivation of their means of livelihood and devastation by disease; and

"Whereas, generally, indigenous people who are integrated into a national society face discrimination and exploitation in housing, education, and in matters concerning their own language and religion; and

"Whereas, the indigenous people who remain in their own territorial lands face disruption of their cultures and forced displacement as their lands and natural resources are claimed for national development, bringing some of them to the brink of extinction; and

"Whereas, the International Labour Organization has adopted conventions calling for indigenous peoples to retain some or all of their own social, economic, cultural, and political institutions; and

"Whereas, in 1979, Denmark passed the Home Rule Act, granting the local population of Greenland wide powers of self-government within a single state system while maintaining the territorial and legal unity of Denmark; and

"Whereas, governments in Argentina, Bolivia, Columbia, and Mexico have adopted new laws protecting and promoting the rights of indigenous peoples, and today, 100,000 indigenous people in Greenland, Norway, and Sweden enjoy home-rule arrangements, and the home-rule experience of the Saami, Inuit, and other indigenous peoples in these countries are a model for future self-rule arrangements in other parts of the world; and

"Whereas, the United Nations has formally declared 1993 to be the International Year for the World's Indigenous People, with a view to strengthening international cooperation for the solution of problems faced by indigenous people, including the areas of human rights, the environment, development, education, and health; and

"Whereas, the purpose of designating the Year is also to recognize the value and diversity of cultures and the forms of social organization of the world's indigenous people; and

"Whereas, the Year is a milestone in the struggle of indigenous people to achieve recognition of their rights and equal status in their ancestral homelands; now, therefore,

"*Be it resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring, that this body recognizes the United Nations' International Year of the World's Indigenous People, encouraging the development of new relationships between nations, the international community, and indigenous peoples; and*

"*Be it further resolved*, that the State of Hawaii, in recognition of its own population of indigenous people, the native Hawaiians, proclaims 1993 to be the Year of the World's Indigenous People; and

"*Be it further resolved*, that certified copies of this Concurrent Resolution be transmitted to the Secretary General of the United Nations, the President of the United States, the President of the United Senate, the Speaker of the United States House of Representatives, Hawaii's Congressional Delegation, and the Governor.

POM-227. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Indian Affairs.

"HOUSE CONCURRENT RESOLUTION

"Whereas, prior to the arrival of the first Europeans in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistent social system based on communal land tenure with a sophisticated language, culture, and religion; and

"Whereas, a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehemeha I, the first King of Hawaii; and

"Whereas, from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887; and

"Whereas, the Congregational Church (now known as the United Church of Christ), through its American Board of Commissioners for Foreign Missions, sponsored and sent more than 100 missionaries to the Kingdom of Hawaii between 1820 and 1850; and

"Whereas, in 1887 King Kalakaua was coerced into signing a new constitution, also called the "Bayonet Constitution", that extended voting privileges to American and European males regardless of citizenship and also required property ownership in order to vote, thus disenfranchising Native Hawaiians who did not own land; and

"Whereas, many Native Hawaiians did not own land because the western concept of land as a commodity was foreign to their culture, causing many of them to ignore opportunities to own land, to give away their land, or to sell their land at extremely low prices; and

"Whereas, in response to rumors that Queen Liliuokalani was on the verge of declaring a new constitution limiting the vote to Hawaiian-born or naturalized citizens, on January 14, 1893 members of the annexation club, a group advocating for the annexation of Hawaii to the United States, plotted to overthrow the monarchy; and

"Whereas, the annexation club, led by Lorrin Thurston, sought and received the help of the United States Minister to Hawaii, John L. Stevens; and

"Whereas, in pursuance of the conspiracy to overthrow the Government of Hawaii, the United States Minister and naval representatives of the United States ordered armed naval forces of the United States to invade the sovereign Hawaiian nation on January 16, 1893, and to position themselves near the Hawaiian Government buildings and the Iolani Palace to intimidate Queen Liliuokalani and her Government; and

"Whereas, on the afternoon of January 17, 1893, the Committee of Safety, which represented the American and European sugar planters, descendents of missionaries, and financiers, deposed the Hawaiian monarch and proclaimed the establishment of a Provisional Government; and

"Whereas, the United States Minister thereupon extended diplomatic recognition to the Provisional Government that was formed by the conspirators without the consent of the Native Hawaiian people or the lawful Government of Hawaii and in violation of treaties between the two nations and of international law; and

"Whereas, soon thereafter, when informed of the risk of the bloodshed of her people if they resisted, Queen Liliuokalani issued the following statement yielding her authority to the United States Government rather than to the Provisional Government:

"I Liliuokalani, by the Grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the Constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a Provisional Government of and for this Kingdom.

"That I yield to the superior force of the United States of * * * substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair and called for the restoration of the Hawaiian monarchy; and

"Whereas the Provisional Government protested President Cleveland's call for the restoration of the monarchy and continued to hold state power and pursue annexation to the United States; and

"Whereas the Provisional Government successfully lobbied the Committee on Foreign Relations of the Senate (hereafter referred to in this Resolution as the "Committee") to conduct a new investigation into the events surrounding the overthrow of the monarchy; and

"Whereas the Committee and its chairman, Senator John Morgan, conducted hearings in Washington, D.C., from December 27, 1893, through February 26, 1894, in which members of the Provisional Government justified and condoned the actions of the United States Minister and recommended annexation of Hawaii; and

"Whereas, although the Provisional Government was able to obscure the role of the United States in the illegal overthrow of the Hawaiian monarchy, it was unable to rally the support from two-thirds of the Senate needed to ratify a treaty of annexation; and

"Whereas, on July 4, 1894, the Provisional Government declared itself to be the Republic of Hawaii; and

"Whereas, on January 24, 1895, while imprisoned in Iolani Palace, Queen Liliuokalani was forced by representatives of the republic of Hawaii to officially abdicate her throne; and

"Whereas, in the 1896 United States Presidential election, William McKinley replaced Grover Cleveland; and

"Whereas, on July 7, 1898, as a consequence of the Spanish-American War, President McKinley signed the Newlands Joint Resolution that provided for the annexation of Hawaii; and

"Whereas, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States; and

"Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people or their sovereign government; and

"Whereas, the Congress, through the Newlands Resolution, ratified the cession, annexed Hawaii as part of the United States, and vested title to the lands in Hawaii in the United States; and

"Whereas, the Newlands Resolution also specified that treaties existing between Hawaii and foreign nations were to immediately cease and be replaced by United States treaties with such nations; and

"Whereas, the Newlands Resolution effected the transaction between the Republic of Hawaii and the United States Government; and

"Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum; and

"Whereas, on April 30, 1900, President McKinley signed the Organic Act that provided a government for the territory of Hawaii and defined the political structure and powers of the newly established Territorial Government and its relationship to the United States; and

"Whereas, on August 21, 1959, Hawaii became the 50th State of the United States; and

"Whereas, the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land; and

"Whereas, the long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Native Hawaiian people; and

"Whereas, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions; and

"Whereas, in order to promote historical and cultural understanding, the Legislature of the State of Hawaii has determined that the year 1993 should serve Hawaii as a year of special reflection on the rights and dignities of the Native Hawaiians in the Hawaiian and the American societies; and

"Whereas, the Eighteenth General Synod of the United Church of Christ in recognition of the denomination's historical complicity in the illegal overthrow of the Kingdom of Hawaii in 1893 directed the Office of the President of the United Church of Christ to offer a public apology to the Native Hawaiian people and to initiate the process of reconciliation between the United Church of Christ and the Native Hawaiians; and

"Whereas, the Japanese American Citizens League, the oldest and largest Asian American civil rights organization in the United States, passed a national resolution supporting the indigenous Hawaiians in their struggle to address the federal government's illegal and immoral wrongdoing committed against them; and

"Whereas, it is proper and timely for the Congress on the occasion of the one hundredth anniversary of the event, to acknowledge the historic significance of the illegal overthrow of the Kingdom of Hawaii, to express its deep regret to the Native Hawaiian people, and to support the efforts of the State of Hawaii, the United Church of Christ and the Japanese American Citizens League; now, therefore, be it

"*Resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring*, That the President and Congress of

the United States are requested to formally apologize to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination; and be it further

"*Resolved*, That the Legislature urges the President and Congress of the United States to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, and to support reconciliation efforts between the United States and the Native Hawaiian people; and be it further

"*Resolved*, That certified copies of Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Chair and members of the United States Senate Select Committee on Indian Affairs, and the members of Hawaii's congressional delegation."

POM-229. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION No. 5

"Whereas, the text of the Tahoe Regional Planning Compact is set forth in full in NRS 277.200; and

"Whereas, the compact was amended by the State of California and the amendments were adopted by the Nevada Legislature in 1987; and

"Whereas, the amendments become effective upon their approval by the Congress of the United States; and

"Whereas, the amendment would authorize certain member of the California and Nevada delegations which constitute the governing body of the Tahoe Regional Planning Agency to appoint alternates to attend meetings vote in the absence of the appointed members, alter the selection process of the Nevada delegation and further expand the powers of the Tahoe Transportation District; and

"Whereas, the compact was enacted to achieve regional goals in conserving natural resources of the entire Lake Tahoe Basin and the amendments are consistent with this objective; now, therefore, be it

"*Resolved, by the Assembly and the Senate of the State of Nevada, jointly*, That the Legislature of the State of Nevada hereby urges the Congress of the United States to expedite ratification of the amendments to the Tahoe Regional Planning Compact made by the State of California and adopted by the Nevada Legislature in 1987; and be it further

"*Resolved*, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-230. A joint resolution adopted by the General Assembly of the State of Rhode Island; to the Committee on the Judiciary.

"JOINT RESOLUTION

"Whereas, The United States House of Representatives and the United States Senate, by the required constitutional vote of two-thirds (⅔) of each house concurring therein, did propose to the legislatures of the several states on September 25, 1789, an amendment to the Constitution of the United States by a resolution worded as follows:

"'*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled . . . that the following [Article] be proposed to the Legislatures of the several states, . . . which [Article], when ratified by three-fourths (¾) of said Legislatures, to be valid to all intents and purposes, as part of the said Constitution, viz.:

"[An Article] in addition to, and amendment of the Constitution of the United States of America . . . pursuant to the fifth Article of the original Constitution."; and

"Whereas, The amendment presented would require an election of the United States House of Representatives to intervene before any increase or decrease in the compensation of Members of the United States Congress may take effect; and

"Whereas, This amendment to the United States Constitution has already received the approval of the legislatures of the following states on the dates indicated, to wit:

"Alabama on May 5, 1992 (138 Cong. Rec. H3729, H3739, S6845, S8387);

"Alaska on May 5, 1989 (135 Cong. Rec. H5485, S8054; 138 Cong. Rec. S6842);

"Arizona on April 3, 1985 (131 Cong. Rec. 8057; 9443; 138 Cong. Rec. S6838);

"Arkansas on March 5, 1987 (134 Cong. Rec. 12562, 14023; 138 Cong. Rec. S6839);

"California on June 26, 1992 (138 Cong. Rec. H10100, S18271, E2237);

"Colorado on April 18, 1984 (131 Cong. Rec. 36505; 132 Cong. Rec. 22146; 138 Cong. Rec. S6837);

"Connecticut on May 13, 1987 (133 Cong. Rec. 23571, 23648–9; 138 Cong. Rec. S6840);

"Delaware on January 28, 1790 (138 Cong. Rec. S6833–4);

"Florida on May 31, 1990 (136 Cong. Rec. H5198, S10091; 138 Cong. Rec. S6844);

"Georgia on February 2, 1988 (134 Cong. Rec. 9155, 9525; 138 Cong. Rec. S6840);

"Idaho on March 23, 1989 (135 Cong. Rec. H1893, S7911; 138 Cong. Rec. S6842);

"Illinois on May 12, 1992 (138 Cong. Rec. H3729, H3739, S6846, S8387–8);

"Indiana on February 19, 1986 (132 Cong. Rec. 6638, 8284; 138 Cong. Rec. S6839);

"Iowa on February 7, 1989 (135 Cong. Rec. H836. S3509–10; 138 Cong. Rec. S6841);

"Kansas on April 5, 1990 (136 Cong. Rec. H1689, S9180, E1740–1; 138 Cong. Rec. S6843–4)

"Louisiana on July 6, 1988 (134 Cong. Rec. 18470, 18760; 138 Cong. Rec. S6841);

"Maine on April 27, 1983 (130 Cong. Rec. 24320, 25007–8; 138 Cong. Rec. S6836–7);

"Maryland on December 19, 1789 (138 Cong. Rec. S6831–2);

"Michigan on May 7, 1992 (138 Cong. Rec. H3093, S6845–6, S7026);

"Minnesota on May 22, 1989 (135 Cong. Rec. H3258, 3678, S7655–6, S7912; 138 Cong. Rec. S6842–3);

"Missouri on May 5, 1992 (138 Cong. Rec. H3924, S6845, S14974, E1532–3, E1634, E1651);

"Montana on March 11, 1987 (133 Cong. Rec. 7428, 11618–9; 138 Cong. Rec. S6839–40);

"Nevada on April 26, 1989 (135 Cong. Rec. H2054, S10826; 138 Cong. Rec. S6842);

"New Hampshire on March 7, 1985 (131 Cong. Rec. 5987, 6689; 138 Cong. Rec. S6837);

"New Jersey on May 7, 1992 (138 Cong. Rec. S6846);

"New Mexico on February 13, 1986 (132 Cong. Rec. 3649, 3956–7, 4077; 138 Cong. Rec. S6838);

"North Carolina on December 22, 1789 and again on June 30, 1989 (138 Cong. Rec. S6832–3);

"North Dakota on March 25, 1991 (137 Cong. Rec. H2261, S10949; 138 Cong. Rec. S6844–5);

"Ohio on May 6, 1873 (138 Cong. Rec. S6835–6);

"Oklahoma on July 10, 1985 (131 Cong. Rec. 22898, 27963–4; 138 Cong. Rec. S6838);

"Oregon on May 19, 1989 (135 Cong. Rec. H5692, H5972, S11123–4, S12150; 138 Cong. Rec. S6841);

"South Carolina on January 19, 1790 (138 Cong. Rec. S6833);

"South Dakota on February 21, 1985 (131 Cong. Rec. 4299, 5815; 138 Cong. Rec. S6837);

"Tennessee on May 23, 1985 (131 Cong. Rec. 21277, 22264, 27963; 138 Cong. Rec. S6838);

"Texas on May 25, 1989 (135 Cong. Rec. H2594, S6726–27; Cong. Rec. S6843);

"Utah on February 25, 1986 (132 Cong. Rec. 12480, 13834–5; 133 Cong. Rec. 31424; 138 Cong. Rec. S6839);

"Vermont on November 3, 1791 (138 Cong. Rec. S6834);

"Virginia on December 15, 1791 (138 Cong. Rec. 6834–5);

"West Virginia on March 10, 1988 (134 Cong. Rec. 8569, 8752; 138 Cong. Rec. S6840–1);

"Wisconsin on June 30, 1987 (133 Cong. Rec. 23649; 25417, 26159–60; 138 Cong. Rec. S6840); and

"Wyoming on March 3, 1978 (124 Cong. Rec. 7910, 8265–6; 133 Cong. Rec. 25418–9; 138 Cong. Rec. S6836); and

"Whereas, The General Assembly of the State of Rhode Island and Providence Plantations acknowledges that this particular amendment to the United States Constitution officially became part of that document during the A.M. hours of May 7, 1992, when the Michigan Legislature became the 38th state to ratify it and that the Archivist of the United States on May 18, 1992, did issue a proclamation stating that the amendment had in fact been incorporated into the Constitution and that on May 20, 1992, both houses of the U.S. Congress adopted resolutions expressing their concurrence with that conclusion; and

"Whereas, Rhode Island is among the handful of states that has not acted as yet to ratify what is now the 27th Amendment to the U.S. Constitution and it is important that Rhode Island place its unique imprimatur upon it; now, therefore, be it

"*Resolved*, That this General Assembly of the State of Rhode Island and Providence Plantations does hereby ratify the 27th Amendment to the Constitution of the United States as submitted by the 1st Congress of the United States convened in the City of New York which reads exactly as follows:

"'27TH AMENDMENT

"No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.'; and be it further

"*Resolved*, That the Secretary of State be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the Vice-President of the United States as presiding officer of the United States Senate, to the Speaker of the United States House of Representatives, to the Archivist of the United States, pursuant to the Act of Congress in 1984 numbered as Public Law 98-497; and to both United States Senators and both United States Representatives from Rhode Island in the United States Congress with the request that its complete text be spread upon the Congressional Record and the respective journals to the two houses."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, unfavorably without amendment:

S.J. Res. 114. A joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission (Rept. No. 103–118).

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 2667. A bill making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Graham T. Allison, Jr., of Massachusetts, to be an Assistant Secretary of Defense.

Sheila E. Widnall, of Massachusetts, to be Secretary of the Air Force.

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Doug Ross, of Michigan, to be an Assistant Secretary of Labor.

By Mr. BIDEN, from the Committee on the Judiciary:

M. Joycelyn Elders, of Arkansas, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of four years.

By Mr. BAUCUS, from the Committee on Environment and Public Works:

Mollie H. Beattie, of Vermont, to be Director of the United States Fish and Wildlife Service.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GLENN:

S. 1321. A bill to extend the temporary suspension of duty on umbrella frames; to the Committee on Finance.

S. 1322. A bill to extend the suspension of duty on certain collapsible umbrellas; to the Committee on Finance.

S. 1323. A bill to extend the suspension of duty on certain diamond tool and drill blanks, and for other purposes; to the Committee on Finance.

By Mr. GORTON (for himself and Mrs. MURRAY]:

S. 1324. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 1325. A bill for the relief of Horace Martin; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. WALLOP, Mr. DECONCINI, Mr. CRAIG, Mr. BRYAN, Mr. SIMPSON, Mr. KEMPTHORNE, Mr. BENNETT, Mr. GORTON, and Mr. MURKOWSKI)

S. 1326. A bill to establish a forage fee formula on lands under the jurisdiction of the Department of Agriculture and the Department of the Interior; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. LEAHY, and Mr. MOYNIHAN):

S. 1327. A bill to require the Secretary of the Interior to conduct a study of historic sites, buildings, and artifacts in the Champlain Valley and the Upper Hudson River Valley, including the Lake George area in the United States and Canada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 1328. A bill to enable the Secretary of Health and Human Services to carry out activities to reduce waste and fraud under the medicare program; to the Committee on Appropriations.

By Mr. D'AMATO (for himself and Mr. SIMON):

S. 1329. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Relations.

By Mr. HOLLINGS:

S. 1330. A bill to authorize a certificate of documentation for the vessel *Serena*: to the Committee on Commerce, Science, and Transportation.

S. 1331. A bill to authorize a certificate of documentation for the vessel *Whit Con Tiki*; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 1332. A bill to designate a portion of the Farmington River in Connecticut as a component of the national wild and scenic rivers system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself Mr. SIMON, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. BYRD, Mr. GRAHAM, Mr. BREAUX, and Mrs. BOXER):

S. 1333. A bill to improve the admissions process at airports and other ports of entry, to strengthen criminal sanctions for alien smuggling investigatory authority of the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. DANFORTH, and Mr. BOND):

S. 1334. A bill to designate the facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, as the "Jerry L. Litton United States Post Office Building", and for other purposes; to the Committee on Governmental Affairs.

By Mr. KOHL:

S. 1335. A bill for the relief of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1336. A bill to increase the fee for the enforcement of the Tea Importation Act, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 136. A resolution to refer S. 1325 entitled "A bill for the relief of Horace Martin," to the Chief Judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. KOHL:

S. Res. 137. A resolution to refer S. 1335 entitled "A bill for the relief of the Menominee Indian Tribe of Wisconsin" to the Chief Judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GLENN:

S. 1321. A bill to extend the temporary suspension of duty on umbrella frames; to the Committee on Finance.

S. 1322. A bill to extend the suspension of duty on certain collapsible umbrellas; to the Committee on Finance.

S. 1323. A bill to extend the suspension of duty on certain diamond tool and drill blanks, and for other purposes; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

• Mr. GLENN. Mr. President, I introduce three bills which extend previously enacted duty suspensions. The products involved are: Hand held umbrella frames; self-folding telescopic shaft collapsible umbrellas; and certain diamond tool and drill blanks.

With respect to umbrellas and umbrella frames, there is no domestic manufacturer of these products. The absence of U.S. manufacturers makes the imposition of duties on these products not only unnecessary because there are no U.S. industries to protect, but it also makes these items more expensive. The extra cost is likely to be passed along to American consumers in the form of higher prices. Duty suspensions, such as those I am introducing today, are designed to eliminate this unnecessary cost and its ensuing deleterious effect on competitiveness where no legitimate benefit to a domestic producer is provided.

The third bill I am introducing today extends the duty suspension for imported polycrystalline diamond compact [PDC] tool and drill blanks. GE Superabrasives, located in Worthington, OH, is the predominant United States producer of these blanks, which are made at the Worthington Facility as well as at a GE plant in Ireland. These PDC blanks are used in the manufacture of drill bits for oil and gas exploration and various mining functions. GE Superabrasives is asking for this extension, which has been in effect almost continuously since 1984. GE wants to eliminate the duty on the blanks they import from their plant in Ireland in order to keep costs to users of PDC blanks down.

I know of no opposition to any of these duty suspension bills and urge their expeditious enactment.•

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 1324. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

BOISE CASCADE LAND EXCHANGE ACT OF 1993

• Mr. GORTON. Mr. President, with Senator MURRAY, I introduce a bill to authorize a land exchange between the Bureau of Reclamation and the Boise Cascade Corp. This bill was introduced in the 102d Congress, but no action was taken by the committees of jurisdiction.

Boise Cascade's plywood and sawmill operations in Kettle Falls, WA, are adjacent to 26 acres of land owned by the Bureau of Reclamation. The Bureau land provides a buffer between scenic Lake Roosevelt and Boise Cascade's operations. The National Park Service, which manages the Bureau's land, historically has issued a special-use permit allowing Boise Cascade to operate along the edge of the land. However, the Park Service has indicated that it may not reissue the permit when it expires in 1995, and has stated conclusively that the permit will not be reissued upon expiration in 2000.

Without a special use permit, Boise Cascade would not be able to continue its operations at Kettle Falls. Some 350 mill jobs would be lost and the community would be devastated. To prevent such a catastrophe, Boise Cascade has proposed exchanging 138 acres of land it owns for 6 of the 26 acres it needs to continue operating. The 138 acres is primarily wildlife habitat located along Lake Roosevelt and the Colville River, and would be conveyed to the Bureau of Reclamation upon passage of this legislation.

This land exchange is supported by the Bureau of Reclamation, the Park Service and Boise Cascade. In addition, a local citizens' group concerned with Columbia River water quality issues has negotiated a series of mitigation measures with Boise Cascade, and has given its full support to the land exchange.

Mr. President, this exchange is a win-win solution to a potentially severe problem, and I urge the Energy Committee to hold hearings on the bill as soon as possible. I thank my colleagues for their consideration.•

By Mr. CAMPBELL (for himself, Mr. WALLOP, Mr. DECONCINI, Mr. CRAIG, Mr. BRYAN, Mr. SIMPSON, Mr. KEMPTHORNE, Mr. BENNETT, Mr. GORTON, and Mr. MURKOWSKI):

S. 1326. A bill to establish a forage fee formula on lands under the jurisdiction of the Department of Agriculture and the Department of the Interior; to the Committee on Energy and Natural Resources.

FEDERAL FORAGE FEE FORMULA ACT OF 1993

Mr. CAMPBELL. Mr. President, I am sending legislation to the desk that changes the way ranchers pay to graze their livestock on Federal rangelands.

The legislation Senator WALLOP and I are introducing may begin a new era in the management of our Federal grazing lands. The formula included in this proposal abandons the old Public Rangelands Improvement Act [PRIA] formula, which has been much maligned, in favor of a formula that sets a realistic value on the opportunity to graze livestock on public lands.

Having been very active on this issue for many years, I know congressional debate about grazing fees has been polarized. Opponents of the current fee argue that ranchers don't pay fair market value, while ranchers would like to maintain the status quo. But, how does one determine fair market value?

For instance, when doing a fair market value appraisal, appraisers compare the value of similarly situated pieces of property—they compare apples with apples. When opponents of the current grazing program compare the prices charged to lease private or State lands with the grazing fees ranchers pay for BLM or Forests Service lands, however, they are comparing apples with oranges.

Without going into detail about the differences between private leased lands and the Federal range, suffice it to say that only one agency really attempts to compile data about private leased lands—the Department of Agriculture's Economic Research Service. But even these numbers are inaccurate because private leased lands, upon which so many critics base their views, include farm fields and pastures, not unimproved native rangeland.

Taking this fact into account, there are two key objectives in determining the formula for this new forage value based grazing fee: the first, is identifying the value of the grass, or forage, as a percentage of the private land lease; the second, concerns an adjustment reflecting the lower returns derived from Federal lands compared to private lands, as well as the additional cost of doing business on Federal lands compared to private lands. In short, the Federal forage fee formula is based on the private forage market while reflecting the higher operational costs and lower returns derived from Federal lands. This results in a formula that provides economic parity between producers who use Federal land and private livestock producers.

In fact, just yesterday I and many of my Western colleagues released a study by Pepperdine University of "Montana Ranches Using Federal and Non-Federal Grazing Forage" that provides solid, empirical data backing up our new grazing fee proposal.

I recognize there is a need for grazing reforms. I am concerned, however, that many have the perception that the fee, as established by President Reagan in Executive Order 12458, has become a symbol representing unfair subsidies and environmental degradation.

It is equally important to realize that while only 3 percent of the land east of the Rocky Mountains is owned by the Federal Government, more than two-thirds of the land west of the Rockies is federally owned. Within each of the Western States, the quality of the land also varies dramatically. In Nevada, the Federal Government owns more than 83 percent of the land. In many instances, grazing on private land in Western States is simply not an option—it's unavailable or extremely limited.

I am not introducing this bill to preempt the management reforms Secretary of the Interior Babbitt intends to recommend, but rather, my intention is to dovetail with the Secretary's efforts to address these issues administratively.

It is clear to me that most people care about management issues, that is, the Department's ability to effectively steward the resources it manages. To cattlemen, however, the single most important issue is the fee. If it's too high, ranchers go out of business. The ranchers I've talked to realize they'll have to pay more for the privilege of grazing on public lands, but as business people, they need stability—stability that can only be provided if a bill passes to lock a higher fee into place.

It is my hope that working together this issue can be resolved by separating grazing fees from, for instance, range and riparian area improvements in the political sense, and then later, successfully relink them in the land management sense. What I mean by this is that some environmentalists equate high fees with a cattle-free, sheep-free range. But range stewards know there is a place for livestock on the range.

Livestock grazing continues to be one of the most important tools available to rangeland managers to protect and enhance the environment on our public lands and has contributed to an increase in the overall health of the western rangeland. Controlled livestock grazing allows plant life to thrive with sturdy growth, and in turn, provides forage for wildlife, including important game animals. Indeed, 55 years after the passage of the Taylor Grazing Act, it can be said that much of the public rangeland is more healthy and supports a greater diversity of plant and animal life.

In Colorado, you can find an example of the importance of grazing to range maintenance in the Pass Creek Allotment of the Canon City BLM District in Fremont County. Every year from June 1 to 15, cattle are purposely grazed in a riparian area. Then, the permittee moves the cattle in alternate years to one of two pastures on adjacent uplands, where the abundant forage encourages them to remain. Frequent herding and well-placed water

troughs keep the cattle on uplands until July 15, when they move to another pasture. After 10 years of this system, with no reduction in livestock numbers, willow growth has greatly enhanced bank overhang and shading, vastly improving brook trout habitat. Dense vegetation remains in the creek overflow area to help control high water and collect sediment.

I think it is ironic that although this past election was characterized by the slogan, "It's the Economy, Stupid," President Clinton has been severely criticized for an action he took in order to help preserve the economies of Western States. President Clinton agreed to drop the most controversial public lands provisions from his budget in order for Congress and the Department of the Interior to address them in a more rational way. My bill is an attempt to keep my end of the bargain.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 1326

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the Federal Forage Fee.

SECTION 1. FINDINGS.—

(a) Congress finds and declare that—

(1) it is in the national interest that the public lands are producing and continue to produce water and soil conservation benefits, livestock forage, wildlife forage and recreation and other multiple use opportunities;

(2) rangelands will continue to be stabilized and improved long term by providing for cooperative agreements, private, public partnerships and flexibility in management programs and agreements;

(3) to assure sound management and stewardship of the renewable resources it is imperative to charge a fee that is reasonable and equitable and represents the fair value of the forage provided;

(4) the intermingled private-public land ownership patterns prevailing in much of the west create a strong interdependence between public and private lands for forage, water, and habitat for both wildlife and livestock;

(5) the social and economic infrastructure of many rural communities and stability of job opportunities in many area of rural America are highly dependent on the protection of the value of privately held production units on federal lands.

SEC. 2. ENVIRONMENTAL AND LAND USE REQUIREMENTS.—Unless contrary to this statute, all grazing operations conducted on any federal lands shall be subject to all applicable Federal, State and local laws, including but not limited to:

(1) Animal Damage Control Act (7 U.S.C. 426–426b)

(2) Bankhead-Jones Farm Tenant Act (50 Stat. 522) as amended

(3) Clean Air Act (42 U.S.C. 7401–7642) as amended

(4) Endangered Species Act of 1973 (16 U.S.C. 1531–1544) as amended

(5) Federal Advisory Committee Act (86 Stat. 770), as amended

(6) Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3)

(7) Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136–136y), as amended

(8) Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)

(9) Federal Water Pollution Control Act (33 U.S.C. 1251 1387), as amended

(10) Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600–1614)

(11) Granger-Thye Act (64 Stat. 82)

(12) Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701), as amended, Title V

(13) Multiple Use Sustained Yield Act of 1960 (16 U.S.C. 528–531)

(14) National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370a), as amended

(15) National Forest Management Act of 1976 (16 U.S.C. 1600, 1611–1614)

(16) Public Rangelands Improvement Act of 1978 (92 Stat, 1803)

(17) Taylor Grazing Act (48 Stat. 1269), as amended

(18) Wilderness Act (78 Stat. 890), as amended

SEC. 3. FEE SCHEDULE.—

(a) For the purpose of this section the terms—

(1) "Sixteen western states" means WA, CA, ID, NV, NM, WY, CO, KS, SD, ND, NE, OR, OK, AZ, UT and MT.

(2) "AUM" means an animal unit month as that term is used in the Public Rangeland Improvement Act (92 Stat. 1803);

(3) "Authorized Federal AUMs" means all "allotted AUMs" reported by BLM and "permitted to graze AUMs" reported by USFS.

(4) "WAPLLR" means the weighted average private land lease rate determined by multiplying the Private Land Lease Rate reported by the Economic Research Service for the previous calendar year for each of the sixteen western states by the total number of authorized federal AUMs, as defined in Section 3(a)(3), in each state for the previous fiscal year, then that result divided by the total number of authorized federal AUMs for the sixteen western states. These individual state results are then added together and divided by 16 to yield a weighted average private land lease rate for that year.

(5) "Report" means the report titled "Grazing Fee Review and Evaluation Update of the 1986 Final Report" dated 4/30/92 and prepared by the Departments of the Interior and Agriculture.

(6) "Non Fee Cost Differential" means a value calculated annually by the Secretaries by multiplying the weighted difference in non-fee costs per AUM between public land and private land by the Input Cost Index (ICI) determined annually by the Department of Agriculture. The weighted difference in non-fee costs is a factor of 0.552 determined by deducting the private AUM non-fee costs (as outlined on page 58 of the Report) from the public AUM non-fee costs for cattle times 4, added to the result of deducting private AUM non-fee costs from public AUM non-fee costs for sheep times 1, then that result divided by 5."

(7) "Net Production Differential" is the percentage calculated annually by dividing the cash receipts per cow for federal permittee livestock producers by the cash receipts per cow for western non-federal livestock producers in the sixteen western states as surveyed by the Economic Research Service in annual Cost of Production Surveys (COPS).

(8) "PLFVR" means the private lease forage value ratio determined by dividing the average of the 1964-68 base years' private land lease rate into the forage value portion of the private land lease rate of $1.78 as determined in the 1966 Western Livestock Grazing Survey.

(b) The Secretaries of the Department of Agriculture and the Department of the Interior shall calculate annually the Federal Forage Fee by calculating the average of the WALLPR for the preceding three years; multiplying it by the PLFVR; then deducting from that result the Non Fee Cost Differential; and multiplying that result by the Net Production Differential. For each year that this calculation is made, all data used for calculating this fee shall come from the calendar year previous to the year for which the fee is being calculated unless specified otherwise in the above calculations.

(c) The Federal Forage Fee shall apply to all authorized federal AUMs under the jurisdiction of the U.S. Department of Agriculture and the U.S. Department of the Interior.

(d) For the first year that the Secretaries calculate the Federal Forage Fee, the Fee shall not be greater than 125%, or less than 75% of the fee calculated for the previous year pursuant to Executive Order 12548 dated February 14, 1986. For each year after the first year that the Secretaries calculate the Federal Forage Fee, the Fee shall not be greater than 125%, or less than 75% of the Federal Forage Fee calculated for the previous year.

(e) The survey of non-fee costs used to calculate the Non Fee Cost Differential shall be updated periodically by the Secretaries so as to reflect as accurately as possible the actual non-fee costs incurred by the cattle and sheep industry that utilizes public lands in the sixteen western states. The results of the updated survey shall be incorporated into the calculation of the Non Fee Cost Differential as they become available.

A BRIEF DESCRIPTION OF THE FEDERAL FORAGE FEE FORMULA

The Federal Forage Fee Formula is based on the premise that the western public lands grazing permittee should pay the fair value of the forage received from federal lands.

There are two key objectives to determining the formula for a forage value-based grazing fee: The first is identification of the value of the grass, or forage, as a percentage of the private land lease rate. The second concerns an adjustment which reflects the lower returns derived from federal lands compared to private lands, as well as the additional costs of doing business on federal lands compared to private lands.

In short, the Federal Forage Fee Formula is based on the private forage market while reflecting the higher operational costs and lower returns derived from federal lands. As a result, this formula would promote similar economic opportunity between federal land and private land livestock producers.

The Federal Forage Fee Formula is critical to the continued viability of the western livestock industry. Ranchers are the family farmers of the West. The establishment of a fair and equitable grazing fee formula is necessary to ensure their survival.

Furthermore, the rancher is key to the rural western economy. Every dollar a rancher spends yields $5 dollars in economic activity throughout the West. Not only does this add billions to the nation's economy, in much of the West, it is the single largest source of economic activity and tax revenue.

Every western ranching job creates as many as four jobs on Main street. If those

ranchers go under, so will the tractor, truck and automobile dealers, the gas, grocery and feed store owners, the veterinarians, doctors and dentists, and many others who make up the commercial and social fabric of rural western towns.

A fee not based on sound science and careful study will destabilize the entire livestock industry and the rural western economic infrastructure if supports. If Congress and the Administration want livestock grazing on federal lands, and the billions of dollars in economic activity it represents, they must enact The Federal Forage Fee Formula.

FEDERAL FORAGE FEE FORMULA—NARRATIVE DESCRIPTION

The Federal Forage Fee Formula is based on the premise that the western public lands grazing permittee should pay the fair value of the forage received from federal lands.

Two objectives were met in determining the formula for a forage value-based grazing fee: 1) Identification of the value of raw forage as a percentage of the private land lease rate (Private Lease Forage Value Ratio); and 2) an adjustment which reflects the lower animal production derived from federal lands compared to private lands (Net Production Differential), and the additional costs of doing business on federal lands compared to private lands (Non Fee Cost Differential) (e.g. additional infrastructure and operational costs). Because the costs associated with cattle production vary from those of sheep production, sheep costs are figured into the Non Fee Cost Differential (80% cattle. 20% sheep). Simply put, the federal forage fee formula is based on the private forage market while reflecting the unique costs of production and relative inefficiencies of harvesting federal forage compared to private land operations. A reasonable grazing fee must reflect the higher operational costs and lower animal production derived from federal lands and, as such, would promote similar economic opportunity between federal land and private land livestock producers.

The private land lease rate is weighted by the proportional number of federal AUMs in each of the 16 western states. The rolling three year weighted average of the private land lease rate is used in order to minimize the high and low extremes of the lease scale. This lease rate is calculated on a weighted average of private lease rates for non-irrigated native rangelands.

The value of the forage component of private land leases, as determined in a comprehensive 1966 grazing fee study and carried through in the 1992 update of the Grazing Fee Review and Evaluation report is 48.8% of the total private land lease rate. The remaining 51.2% of the private lease rate includes infrastructure and services associated with a private land lease.

The Non Fee Cost Differential of the federal forage fee formula is based on the updated analysis of non-fee costs adjusted annually for inflation. This number indicates that for 1991 it cost $1.60 more per AUM to operate on federal lands than private lands.

The Net Production Differential of the formula is based on Economic Research Service comparisons of cash livestock receipts from both western federal land ranches and nonfederal land ranches which show that, overall, the federal lands generate 12.1% less revenue per animal unit than private lands (thus, the 87.9% figure).

Every figure in the federal forage fee formula is derived from economic data compiled and updated by federal agencies.

Research using historical data reveals that the Federal Forage Fee yields more predictable fee than PRIA. which has fluctuated from a high of $2.41 to a low of $1.35 (a 78% variance) over its 15 year life. A 25% cap on any increase or decrease in the fee from year to year, starting with the current fee is maintained. Additionally, the federal forage fee formula adheres to the guidelines Congress established for determination of federal grazing fee policy as outlined by the Federal Lands Policy Management Act of 1976, the Independent Offices Appropriations Act of 1952 and the Taylor Grazing Act of 1934.

FIGURES

Weighted Average Private Land Lease Rate (WAPLLR): $8.77.

Derived from 16 state weighted average private land lease rate as surveyed by the U.S. Department of Agriculture's Economic Research Service (ERS) and adjusted for the number of federal AUMs in each state. The calculation is a rolling average of the three most recent years' data.

Private Land Forage Value Ratio (PrLFVR): ×48.8%.

Grazing Fee Review and Evaluation, DOI & USDA 1992, pgs, 18 and 22. Determines the forage component of the WAPLLR.

Non Fee Cost Differential (NFCD): $1.60.

Grazing Fee Review and Evaluation, DOI & USDA 1992, pg. 58, Appendix A.1; Updated by Input Cost Index (ICI) for currency. Deduction to reflect additional costs per AUM incumbent with federal land grazing.

Net Production Differential (NPD) × 87.9%.

Grazing Fee Review and Evaluation, DOI & USDA 1992, pg. 53, "Equity Among Livestock Producers." Adjustment to reflect lower animal production derived from federal grazing lands.

Formula/calculations

[((WAPLLR × PrLFVR) − NFCD) × NPD = FFF]

Weighted average private land lease rate [WAPLLR]	$8.77
Private lease forage value ratio [PrLFVR] (percent)	×48.8
Private lease forage value	$4.28
Non fee cost differential [NFCD]	−$1.60
	$2.68
Net production differential [NPD] (percent)	×87.9
Federal forage fee (grazing fee) [FFF]	$2.36

The effective Federal Forage Fee would be $2.33 in the first year after applying the 25 percent cap to the current grazing fee.

U.S. SENATE,
Washington, DC, July 29, 1993.

DEAR COLLEAGUE: The Western Livestock Producers Alliance (WLPA), which consists of representatives from the Public Lands Council, the National Cattlemen's Association, the American Sheep Industry Association, the Association of National Grasslands, and the American Farm Bureau Federation, after long deliberation has constructed a new federal forage fee formula which allows for the formulation of equitable forage fees. This formula is the result of an effort by grass-roots producers as well as industry leaders to address attacks on the (PRIA) grazing fee formula.

The WLPA-supported federal forage fee formula provides a sound, accountable formula for determining the value of grazed vegetation. It is based upon the best available and most current government statistics and economically-researched and justifiable relationships. The formula takes into account the market value of raw forage at the private land lease rate while allowed for the additional costs of operating and the reduced animal production on federal lands. The WLPA plan also provides for a 25% cap on fee variance from year to year. Also, this formula will be more stable than the PRIA plan which has allowed the fee to vary 78% over the last 15 years.

The Administration is releasing a proposal revising the grazing fee in early August. Their plan may raise fees between $3.00 and $10,000 per AUM. The economically-justifiable Federal Forage Fee, which allows for yearly re-tabulation, is $2.33 per AUM.

We are introducing a bill on Friday to provide stability for the federal lands livestock industry through the implementation of this WPLA-supported federal fee formula. If you are interested in co-sponsoring this legislation please contact Dan McAulffe or Paul Taylor at 224-5852 (Senator Campbell) or Mandy Arney at 224-6441 (Senator Wallop).

Sincerely,

BEN NIGHTHORSE CAMPBELL
U.S. Senate,
MALCOLM WALLOP,
U.S. Senate.

Mr. WALLOP. Mr. President, for the past few years a raging battle over America's rangelands has taken place in Congress and has swept throughout the countryside. The issue of grazing fees has been at the heart of the argument. The PRIA formula—the method we currently use to calculate the costs of Federal grazing—has been under constant attack. The debate, with simplistic rhetoric, has obscured the real issues and provided throwaway votes for those immune to their consequences.

The lack of understanding by many of my colleagues has brought real pain to Western livestock producers and has hurt rural communities. We, in Congress, have effectively legislated westerners' lives without even listening to what they, themselves, have had to say. The death of the rich rancher is not what's at stake here—it's the economies of hundreds of rural communities. Western ranching has become a culture in crisis.

During last year's debate in Congress, this Senator from Wyoming promised to address the issue of grazing fees in the authorizing committee, the Senate Energy and Natural Resources Committee.

Today, my colleague from neighboring Colorado, Senator CAMPBELL, and I are trying to do just that. We are introducing a new idea—a Federal forage fee formula. This bill will provide the means by which we can fairly and predictably value the forage that ranchers buy from the Government. The forage fee formula was developed by the Western Livestock Producers Alliance, a coalition comprised of the Public Lands Council, American Sheep Industry, National Cattlemen's Association, Association of National Grasslands, and the

American Farm Bureau Federation. This bipartisan, grassroots effort is the result of literally thousands of hours of difficult discussions on grazing policy by those in my home State of Wyoming, and all across the West. By the introduction of this bill, the livestock industry will be assured of a role in this debate.

Mr. President, the WLPA-supported Federal forage fee formula provides a sound, accountable, market-based formula for determining the value of grazed vegetation. It is based upon the best available and most current Government statistics. It's economically sound and justifiable. The formula takes into account the market value of raw forage at the private land lease rate while allowing for the additional costs of operating and the reduced animal production that occurs on Federal lands. The WLPA plan also provides for a 25-percent cap on grazing fee variance from year to year.

A recent study lends dramatic credibility to our legislation. Two days ago, researchers from Pepperdine University released the findings of the most exhaustive analysis of Western ranching yet. It evaluated confidential bank records, loan files, operating records, and actual sales records. It provides a powerful answer to this question: Who has the advantage, the Western Federal land rancher or his private land neighbor? The results were astounding.

This study paints a statistical picture of two types of ranches—one ranch has private rangelands and the other is dependent on Federal lands. For the Federal lands rancher, the cost of doing business with the Government is high. For every dollar that his neighbor, the private land rancher, pockets at the end of the year, the Federal land rancher gets only 66 cents. The Pepperdine study shows that for the public lands rancher, expenses are inherently higher and productivity is less.

The study shows more. In the last 20 years, a generation of time, the Federal land rancher has suffered a loss of ranch value equal to $350 for every unit of production he owns. This means, if a rancher can graze 100 cows on his Federal lands ranch, his loss in ranch value has been $35,000 over the last 2 decades. Contrast this with his neighbor who has 100 cows on private land. In the same 20-year timeframe, his 100-cow ranch has increased in value by $80,000. Make no mistake. Private lands are more productive and are not subject to the uncertainty of doing business with the Federal Government.

Mr. President, in all the time I have represented Wyoming in this Chamber, I know of no piece of legislation that has been more difficult and more painful to develop than this forage fee formula. As the bill moves through the legislative process, I urge my colleagues in the Senate to examine carefully what we are attempting to do here and to understand what is at risk if we don't act with care and knowledge. Again, we are not talking about destroying the rich rancher, we're talking about the death of entire Western communities. Western livestock producers are, indeed, a culture in crisis.

My colleague, Senator CAMPBELL, knows the range country and its ranches first hand and so do I. We would hope our colleagues examine this proposal carefully. The lives and livelihoods of our neighbors and small towns are very much at stake.

Mr. SIMPSON. Mr. President, I rise today to join my fine friend and colleague from Wyoming, Senator WALLOP, and the able Senator from Colorado, Senator BEN NIGHTHORSE CAMPBELL, in introducing a bill that would establish a new Federal forage fee formula that is supported by sound economic methodology and the most current Government statistics. This new fee structure is based on the premise that Federal land permittees should pay a fair market value for the forage on Federal land. I strongly believe this bill meets the test of fairness.

The fee is based on two objectives: First, identification of the value of raw forage as a percentage of the private land lease rate; and, second, an adjustment which reflects the lower animal production derived from Federal lands compared to private lands, and the additional costs associated with cattle production on Federal lands compared to private lands. Since the costs of raising sheep is lower compared to cattle, a cost differential is built into the formula to ensure equitable treatment for each type of grazing.

This new formula adheres to the guidelines established by Congress for determining Federal grazing fee policy as outlined by the Federal Lands Policy Management Act of 1976, the Independent Offices Appropriation Act of 1952, and the Taylor Grazing Act of 1934.

Simply put, the fee recognizes the inefficiencies of harvesting Federal forage and the unique costs of grazing cattle and sheep in the West. A 25-percent cap will be instituted to limit the variation in the fee on a yearly basis. After the appropriate calculations are made, the forage value-based fee will equal $2.33 per animal unit month [AUM]. This is a reasonable increase from the current $1.86 per AUM and is a first step toward finally resolving this issue in Congress.

Leon Panetta, Director of the Office of Management and Budget, and Interior Secretary Bruce Babbitt have both stated that the fee will be increased. Secretary Babbitt has been making a good effort to get a handle on the grazing fee issue. I believe that he recognizes that an increase in fees will not mean a windfall in revenue for the Federal Government. He has stated that he does not want to hurt the small- and medium-sized operators—or the larger operators either.

However, it appears that the administration has done little to incorporate the concerns of Western ranchers into their proposed formula. So it appears that there is much work still to be done in order to ensure that any increase in grazing fees is based on realistic assumptions. Our bill recognizes the differences in the productivity of public lands and structures, a fee formula where permittees will be charged for the varying levels of forage value. It is a fair approach and an acceptable resolution to the long-fought battle by many for fair market values for the use of public lands.

The opponents of this bill will be the usual cast of characters. However, I trust they will come to understand that this is a good-faith effort to fairly address the grazing fee issue. It is a fair approach that takes into account the unique qualities of public land in the arid West. Those who advocate drastic increases in fees often think of this issue solely in financial terms. If we are ever to reach a consensus on this issue, we must all recognize that other factors must be given due consideration as well—and this bill does that.

I commend Senator WALLOP and Senator CAMPBELL for their hard work and thoughtful crafting of a new value-based forage fee formula.

By Mr. JEFFORDS (for himself, Mr. LEAHY, and Mr. MOYNIHAN):

S. 1327. A bill to require the Secretary of the Interior to conduct a study of historic sites, buildings, and artifacts in the Champlain Valley and the Upper Hudson River Valley, including the Lake George area in the United States and Canada, and for other purposes; to the Committee on Energy and Natural Resources.

CHAMPLAIN VALLEY HERITAGE STUDY ACT OF 1993

Mr. JEFFORDS. Mr. President, today I introduce legislation known as the Champlain Valley Heritage Study Act of 1993 on behalf of myself, Senator LEAHY, and Senator MOYNIHAN.

Along Lake Champlain, Lake George, and the Upper Hudson River in my home State of Vermont, and in New York and the Province of Quebec, is a wondrous corridor of heritage, perhaps unrivaled for its historic richness in all of the Western Hemisphere. This legislation seeks only to enhance something that, truly, already exists.

Americans wishing to discover the history, first hand, of the French and Indian Wars, the decisive campaign of the American Revolution, and of a key campaign of the War of 1812, must come to this area.

Fort Ticonderoga, Crown Point, the Saratoga Battlefield, Mount Independence, Bennington Battlefield, Hubbardton Battlefield, the Plattsburg

battle sites are there, and nowhere else. It is a resource the people of the North Country truly cherish, and long have shared with the rest of the world.

Trouble is, it's not an easy task to guide oneself along those paths of history. I would like to change that. And if I can, it seems to me that all the people of the corridor, indeed all the people of this Nation, stand to benefit.

One day in the not-too-distant future, I would hope to see the great historic sites of this corridor linked, made easy to discover and explore. Here and there we ought to have a visitor center to help the traveler, the historian, in their search for the storied places of the past. Here and there ought to be a pulloff by the roadside with explanations of the historic significance of the area, a map. Common signage would be a great help.

To drive the route of the Burgoyne Campaign could be an American historical experience easily comparable to a visit to Gettysburg or Yorktown. The route would, perhaps, start at Saint Jean in Quebec, come south to Button Bay, Crown Point, Mount Independence, and Fort Ticonderoga. Then it might proceed to the site of the bloody delaying action at Hubbardton, on to Whitehall, south along Wood Creek, detouring to the Bennington Battle site, then on to decisive Saratoga. It could be a wondrous historical experience that might be almost a must for all Americans.

The benefits to those who would come here to walk and drive in the paths of history seems obvious. The economic benefit to this area, through increased visitation by thoughtful, caring Americans, seems obvious. Certainly the area is in need of economic help.

The economy has been hit hard in the North country, most recently with the decision to close the Air Force base at Plattsburgh. It was a decision I strongly opposed and with which I strongly disagree. It has hit hard an area with a long history of strong military support for this Nation, going back to the very dawn of European settlement of this continent. A lot of good and decent people have been, and will, be hurt. Perhaps this effort can in some significant way help.

The first step, I believe, should be a thorough inventory of the corridor's historic resources. Nobody does such an inventory as well as the staff of the National Park Service. I know, for the Park Service just completed a study of Civil War sites in the Shenandoah Valley. The Park Service would work closely with people along the corridor, with county and municipal governments, local historians, archeologists, those who operate historic sites, property owners, planning groups, business groups, and all interested citizens.

I will repeat here that there is no apparent need for any extensive land acquisition along Champlain, Lake George, and the Upper Hudson. The historic sites, in large measure, are already protected through long-term caring public and private ownership.

One key site, Mount Independence, partially owned by the State of Vermont, is in particular need of attention. American soldiers spent a winter worse than at Valley Forge there, guarding against a British invasion of our new Nation. As many as 1,000 patriots lie buried there.

The expressions of support from both sides of Lake Champlain have been plentiful, and most encouraging. The heritage corridor idea is one, I believe, whose time has come.

At the very least, a heritage corridor along these historic waterways would be a wonderful gift of our generation to future generations of Americans who would go forth to seek this Nation's fascinating past, indeed this continent's history. We should go forward in the spirit of those farsighted pioneer preservationists of this corridor, such as Ticonderoga's Pell family. Long ago they had the foresight to preserve and protect Ticonderoga, Mount Independence, Saratoga, Hubbardton, and dozens of other historic places.

T.S. Eliot said that history "is a pattern of timeless moments." We are indeed fortunate that a wealth of such moments were enacted in our corridor, and that many of their settings have survived. They constitute a valued bequest that carries a considerable responsibility. They constitute a heritage that should be shared with all Americans.

Therefore, today I introduce this heritage corridor study bill. I do it in the name of the people of my home country who have long cared deeply about their history. Also, I do it in the name of those who wrote the history of the corridor that we seek to honor, preserve, and make more accessible. Those names include Ethan Allen, Arthur St. Clair, Seth Warner, Robert Rogers, Philip Schuyler, George Washington, and a thousand more now forgotten, but never unappreciated, men and women who stood firm to make a new Nation called America.

Those long-ago people, and the people who live along the storied waterways that are true paths of history, deserve no less.

Mr. President, at this time, I ask for unanimous consent to enter into the RECORD, statements from the Alliance of Lake Champlain Chambers of Commerce, the Addison County Regional Planning Commission, the National Parks and Conservation Association, and Edwin Bearss, Chief Historian of the National Park Service.

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

ADDISON COUNTY REGIONAL
PLANNING COMMISSION,
Middlebury, VT, February 19, 1993.

Mr. BRIAN KEEFE,
Office of Senator Jeffords,
Rutland, VT.

DEAR BRIAN: Thanks for taking the time to explain S. 2778 to the Addison County Regional Planning Commission on February 10. Your comments, as well as those of Mike and Bill, were very helpful in making commissioners more knowledgeable about Mt. Independence and the Historic Corridor.

The Commission voted to support the following motion: "To support Bill S. 2778 to study the proposed Heritage Corridor in cooperation with the host towns, and to instruct staff (ACRPC) to follow the study effort and report back (to the Commission and towns) regarding the findings and recommendations of the study."

Twelve of our 21 member towns, and 4 of 5 Citizen Interest Groups were represented at the meeting. The vote was 14 yes and 2 no. Of those twelve towns, Orwell, Ferrisburgh and Shoreham were the lakeshore towns in attendance. Panton, Addison and Bridport delegates were absent. The "no" votes were from the Bristol Town and the Farm Bureau delegates.

Please keep us informed on the progress of the bill, and provide us with drafts of the Historic Corridor Study as they become available.

Sincerely,

SANDI YOUNG,
Executive Director.

[From the Conference of Champlain-Hudson Valley Historic Sites, Societies and Museums, Nov. 20, 1992]

THE CHAMPLAIN-HUDSON RIVER CORRIDOR

(By Edwin C. Bearss)

It is a pleasure to be up here in the Champlain-Hudson River Valley. This is my fourth trip to the Valley. I heard a number of concerns and interests expressed following Senator Jeffords' address to you and I hope that some of them will be covered.

And why is Lake Champlain and the Hudson River corridor important? It was important long before Samuel de Champlain discovered it as the first white man. It had been known long before by Native Americans because before you had roads it was a natural line of communication from what is now Canada with the area around New York City. So it is a linkage of the flow of people, whether explorers, Native Americans, great armies that fought for the domination of the American continent, or for trade and industry. So there is a sweep of history dating long before Samuel Champlain that links these areas together.

And I know that even in the fifth or sixth grade where they first taught American History in Montana, one of the pictures in the history book that I always will remember was a picture of Samuel de Champlain firing that shot that so affected the relationships between the French and the Algonquins and the Iroquois. That's a childhood memory.

My next memory of this Valley was when I was in about the seventh grade and when you start reading the Saturday Evening Post—when you start reading articles that are not very deep on your own—reading the article by Kenneth Roberts on the first segment of Rogers Rangers that only covered Major Rogers' activities during the French and Indian War. It did not take him to when he went on to the Great Lakes as governor.

And right before I went into the Marine Corps—it could have been the last book I

ever read if I had not been lucky—the last two books would be "Rabble in Arms" and "Arundel." And I traveled the Valley as a hitchhiker in 1941 when I had a delusion at 17 years old that I would like to join the Canadian army. But by that time I had found out that we were in it and I might as well join the United States Marine Corps. But even on that trip I can remember going through Plattsburgh. I remember Ausable Chasm. I also remember General Drum and the maneuvers. Of course, Drum at that time thought we were going to get into the war and he would be the Eisenhower. But alas for General Drum, he ended up the war commanding the First Army as he did then on Governors Island.

My next trip to the Champlain Valley would be in 1959—and this illustrates why the Senator's proposal is so vital—although I had read these books and I had been interested in the area, at that part of my trip I only knew of two sites in this valley that were identified readily in my mind and in the tourist literature that was available—as I was then living in Mississippi—and that was Fort Ticonderoga—and seeing I was employed with the National Park Service, I knew about Saratoga. So those were the ones I visited. I never visited Bennington. I never visited Hubbardton. I never visited Crown Point or Valcour Island because it was not common knowledge out in the hinterland of the United States what a wonderful cultural heritage you have in the Valley.

My next visit was a year and a half ago when, with the Director of Fort Ticonderoga, Nick Westbrook, and Senator Jeffords and others, I walked Mount Independence and visited Hubbardton for the first time, and Chimney Point. And we were able to look across at Ticonderoga just as the bugles and drums were playing as you remember, and it made a very impressive sight.

My last visit before this was this fall. After visiting Fort Ticonderoga, after visiting Hubbardton, after seeing Mount Independence, I knew enough about it to lead a Smithsonian tour through the area. And on the Smithsonian tour through the area you could see these wonderful sites that are tied together. And as you toured, you learned about other sites. You learned about where Duncan Campbell is buried, you learned where Jane McCrae—these lesser profile sites.

So that is what we're talking about: education. And drawing people to the area to make them stay a little while. Not to just see the high profile site that they might have read about first in literature or in a general history book when they were back in grade school.

And speaking of the gentleman that pointed out the Disney World ones: if you have a good, viable interpretive program you can put—they'll be coming to see the sites if you talk interestingly, if you put on an interesting program like they do at Fort Ticonderoga and other places, the people will come to these sites and give them first priority over the Disneylands. That is what we are talking about here.

Now, let us go back and look at the process, if it is conducted, of inventorying and evaluating these sites. I heard the mention of the Cuyahoga Valley. The Cuyahoga Valley is a different situation. It was established as a National Recreation Area with a defined boundary. That is what we are not talking about now under this bill. It is to survey, evaluate and inventory the various sites, working on the broadest partnership, as we did in the Shenandoah Valley, and that is spelled out in the legislation. When it directs the Secretary of the Interior to look at the cultural resources associated with the Hudson River and Lake George-Lake Champlain it is to look at all the sites and inventory them.

There are many of these sites, strange to say, even in the Shenandoah Valley—and I have been interested intimately in the Civil War since I was in the seventh-grade and had visited many of the sites—that there is not information on exactly where so-and-so did something.

So, the inventory will look at the sites, find out which are traditional. For instance, when I was, over two months ago, in the Mohawk Valley the Oneida Indians are convinced that the confrontation between Champlain and their forebears took place in the Mohawk Valley, not in the Lake Champlain area. So you have those reasons why it is important to have a survey and an evaluation. You must work with all parties. And that is what we have done in the Shenandoah Valley, work with the landowners, work with the concerned people such as the gentleman that has spent 20 or 30 years in the Air Force that spoke back there that has heard what happened in the Cuyahoga Valley, it's to work with all the groups. Work with the county planing boards, work through Nick over there at Ticonderoga, work through Doug Lindsay over at Saratoga, work with the people at Shelburne, the people in the Canal Society and the general public to get a consensus on what should be done.

You who are in the Lake Champlain area, there is already a federal presence that can serve as an anchor of one section of a proposed corridor there at Saratoga. And I can assure you, though the Park Service does what Congress legislates, that we would not be looking for any greatly expanded Park Service area. I have been with the Park Service since 1955, to illustrate why we would not—we had at that time 179 areas, when I entered the Park Service, which we administered. We now have, at the latest inventory, 367 areas. The acreage has gone from 20 million to some 80 million acres. The appropriations and the number of positions have gone up only modestly. So it is not a Park Service initiative, as we will bear from this young lady, to expand the Park Service and get more land in fee. It is to use the Park Service and their expertise in education.

We've always used 'interpretation' but no one, except in the Park Service—Nick knows a little bit about it because he worked for us for a while—used 'education.' Everybody knows what education is. The Governor of New York knows what it is, the Secretary of the Interior knows what education is and the Chief Executive knows what education is. They don't know what 'interpretation' is.

So, these sites are the scene. When you have a good actor, the actor plays on the scene. You go to Ticonderoga, you go to Hubbardton and you have the scene there in which the action and the drama of life and the very lifeblood of our nation, from before Champlain to now, took place.

So, as on the Shenandoah study, the core unit would go out, work with staff at the various sites in the area. Work with Ticonderoga, work with Shelburne, work with the Canal Society, work with the monument up at Plattsburgh, even work with the people such as own that wonderful restaurant up at Valcour where you could eat lunch and look just across that channel where Arnold battled the British and so delayed them that they did not arrive at Fort Ticonderoga until eight months later. So there are all these wonderful resources in gathering information to identify and evaluate the sites.

Also, the next step is to work with the local landowners because they have a very vital—and in our American government the most vital—interest in the land, work with the county governments, the state historic preservation officers. Work with everybody, keep them informed, secure information in public meetings and then prepare a report that would be sent to Congress. Now, the report that is prepared to be sent to Congress will consider all alternatives for the preservation and education of these tremendous sites here which, even better yet, are sketched against a beautiful landscape. It even has the advantage over the Shenandoah, which has a beautiful landscape, because of Lake Champlain.

So, after public input from all segments has been secured, the industry and evaluation of sites has been prepared, then certain recommendations are made. The report is then circulated for public comment to all groups or people interested and are allowed 60 days, or 90 days depending, to make their comments. Then the comments are evaluated and the final report, after clearance by the Department of Interior and by the Office of Management and Budget is forwarded to the Congress. Now, as in the Shenandoah study, there are the alternatives and when it finally reaches our good friends in Congress, they can file the report away and say, "Thank you", and it will never be heard of again. Or, they can say that they like certain options of it and other options they do not. Or, they can buy one alternative. And one alternative is do nothing: let it continue like it is.

That would result far more critically to the resources in the Shenandoah than it would here because in the Lake Champlain and Hudson River area there is already one federal park, there are a number of state parks, there are a number of family parks—there's Fort Ticonderoga—but you have all sorts of lands already preserved and interpreted, but not as well integrated, perhaps, because there are some of them that I, despite tourist literature and guide books only discovered after I was up here with the Smithsonian group a month ago when driving by them. And I suddenly realized, boy, I wish I had a couple more hours to build into the tour for a visit to that site. So there would be this one option: to do nothing.

The next alternative is to use some federal seed money to set up a group that would coordinate activities to bring these sites to the attention of the public on the broadest possible scale.

Then there would be the next alternative, which we would not probably not show up with here since there is no federal presence in the Champlain Valley, is a visitor center located at a central place to be staffed in partnership by the feds, the state and the county, to pass out information, to provide and aid people in planning their visits.

Then there is an 'affiliated area' alternative. The affiliated area alternative would leave—if we're speaking only on Lake Champlain—would leave Saratoga as a core and other areas would be able, if they wished, to use the Park Service logo to popularize them. Under the affiliated area there is sometimes money, but there is no Park Service involvement in the management.

And the final alternative in the Shenandoah, which I would not perceive here, since there is no park in the Champlain Valley, is to establish a park, a national military park in the Shenandoah Valley. That is

the last alternative. And the price or cost is put down on each one of those.

Before closing off, as my time is up, I also want to remark that no understand the Lake Champlain-Hudson River corridor we have to know where it originated. And that's why I'm delighted to have our friends from Quebec and Canada here because you cannot understand that flow of history and pre-history unless there is involvement there in the over-arching educational plan.

Also, as the Senator remarked, there is another corridor that converges on Albany—the Mohawk River Valley corridor—also tied in with communications for the same reason, one that always links them together—and that lady in green there is looking a little happier right now—and was vital to the failure of Lord Germaine, that great strategist and Colonial Secretary sitting in London and his scheme for the 1776 campaign which would call for St. Leger and Burgoyne to converge at Albany. And, of course, they didn't converge. It's hard enough to run a converging attack in World War II with walkie-talkies, radio. How much more difficult it must have been to effect a converging attack in 1776 when communications were in the state they were?

Thank you.

NATIONAL PARKS
AND CONSERVATION ASSOCIATION,
Washington, DC, July 28, 1993.

Hon. JAMES M. JEFFORDS,
Hart Office Building,
Washington, DC.

(Attention: Bill Peck).

DEAR SENATOR JEFFORDS: On behalf of the 350,000 members of the National Parks and Conservation Association (NPCA), I wish to congratulate you for introducing legislation to conduct a much needed study of nationally and internationally significant natural, historic, and cultural resources of the Champlain and Upper Hudson River Valleys.

NPCA has long advocated that a "partnership park" or a "heritage corridor" be established in this area which reflects the region's impact on the history, growth and development of the United States and Canada. The United States and Canada share a common early history, and yet there is not a single unit in the National Park System that tells the story of our common history as North Americans. Your study legislation will help determine how that thematic gap can best be filled.

Enactment of your legislation, will enable the National Park Service to take a comprehensive look at the resources of the Champlain and Hudson Valley region. The resources include archeological sites associated with the early settlement of this region by aboriginal peoples and early settlers, historic sites associated with the contest between the colonial powers, sites associated with the American war of independence and the War of 1812, and other nationally and internationally significant resources.

On behalf of our Association and its Board of Trustees, National Parks and Conservation Association is pleased to endorse your bill.

Sincerely,

PAUL C. PRITCHARD,
President.

ALLIANCE OF LAKE CHAMPLAIN
CHAMBERS OF COMMERCE,
January 11, 1993.

Hon. JAMES M. JEFFORDS,
Rutland VT.

DEAR SENATOR JEFFORDS: On behalf of the Alliance of Lake Champlain Chambers of Commerce, which consist of Chambers of Commerce on both sides of Lake Champlain, I want to applaud your initiative and offer our support of your proposed Champlain Valley Heritage Corridor Study Legislation.

This Legislation will have a significant impact on the Champlain Region. The educational value, economic benefits of our cultural and historic resources, and the local sense of pride derived from this proposed legislation will have long-term effects on the Lake Champlain Basin and the residents of New York and Vermont.

Your sensitivity to the concerns of private businesses and landowners along Lake Champlain is appreciated and, in our opinion, a vital part to the success of this project. Local control and representation, not only from government but also from business, are key factors in the success of this project.

The Alliance thanks you for the draft of the legislation for our review and comments. For more information or questions, please contact me at (802) 877-3830.

Sincerely,

PETER MORRIS,
Chairman.

By Mr. BURNS:

S. 1328. A bill to enable the Secretary of Health and Human Services to carry out activities to reduce waste and fraud under the Medicare Program; to the Committee on Appropriations.

MEDICARE PROGRAM LEGISLATION

Mr. BURNS. Mr. President, I rise today to introduce a bill that would, hopefully, save us some money. Yes, you heard me right, might save us some money. At a time when we are talking about spending programs and trying to make cuts without actually hurting people, I have a bill that will actually save us some money. We have done a little work on this.

This bill was introduced in the House by Mr. SANTORUM. I believe it deserves our attention in this body as well. The bill is designed to enable the Secretary of Health and Human Services to carry out activities to reduce waste and fraud under the Medicare Program.

There are estimates—and I say estimates because the inspector general can only guess at the amount of fraud and abuse based on what is reported in his department—that 10 percent of our health care expenses can be attributed to fraud and abuse, Now, when you are talking about numbers that range in the $800 billion bracket a year, you are talking about a lot of money. Ten percent—I am an old auctioneer—that is $80 billion a year that we would possibly save.

We may not be able to thoroughly eliminate all the fraud and abuse in the system, but we can certainly make a start in the programs which the Government actually runs. This legislation is estimated to save $5.5 billion over a 5-year period. I can only assume that with enhanced enforcement and stronger sanctions imposed against those who engage in fraudulent activities the incentive to try to defraud the system will be greatly reduced.

This is just a drop, in fact, in the whole bucket of health care costs, I know, but it is a start. I firmly believe that in trying to reduce our budget and make our Government more efficient before we start cutting programs and before we even attempt to increase taxes to pay for rising costs, we can make a real effort to eliminate some fraud and abuse within the system that now actually exists.

Mr. President, I send to the desk a copy of the legislation.

By Mr. D'AMATO (for himself and Mr. SIMON):

S. 1329. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Relations.

MISSING PERSONS IN CYPRUS LEGISLATION

• Mr. D'AMATO. Mr. President, I introduce, along with Senator SIMON, a bill to provide for an investigation into the whereabouts of 5 Americans and over 1,600 Greek-Cypriots who have been missing in Cyprus since the brutal Turkish invasion in 1974.

Turkey, a major recipient of United States foreign aid has, for over 19 years, illegally occupied a large part of Cyprus and has refused to cooperate with American and Greek-Cypriot families in the investigation of the missing.

I have staunchly opposed the Turkish invasion and occupation of Cyprus and, last year, cosponsored legislation to end economic assistance to Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem but, today, after 19 years, the long suffering of these families cannot be ignored and action is needed now to give the families a full and honest account of what happened to their loved ones.

One of the leaders in the effort to address this issue is Costas Kassapis, from Detroit, MI, whose 17-year-old son, Andy, was dragged off by Turkish troops on August 20, 1974, with a United States passport in his hand. In October 1974, the family reports receiving a message that was relayed by the Red Cross from Andy stating that he was in a Turkish prison. Since then, the Kassapis family has heard no further word from Andy. Undoubtedly, similar stories exist for the many other affected families.

Firm action is needed to do everything possible, in cooperation with the appropriate international and nongovernmental organizations, to influence the Turkish Government to cooperate in efforts to locate the missing and return them to their families. This would be a laudable first step to return Cyprus to the basic ideals of democracy based on majority rule, the rule of law, and the rights of the minority.

I urge my colleagues to join us in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES CITIZENS AND OTHERS MISSING FROM CYPRUS.

(a) INVESTIGATION.—As soon as it practicable, the President shall undertake, in cooperation with an appropriate international organization or nongovernmental organization, a thorough investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974. The investigation shall focus on the countries and community which were combatants in Cyprus in 1974, all of which currently receive United States foreign assistance.

(b) RESULTS OF THE INVESTIGATION.—The President shall report the findings of this investigation to the family of each of the United States citizens and others who have been missing from Cyprus since 1974 and to the Congress. Such reports shall include the whereabouts of the missing.

(c) RETURNING THE MISSING.—The President, in cooperation with an appropriate international organization or nongovernmental organization, shall do everything possible to return to their families, as soon as is practicable, the United States citizens and others who have been missing from Cyprus since 1974, including returning the remains of those who are no longer alive.●

● Mr. SIMON. Mr. President, I am pleased to join today with Senator D'AMATO of New York in sponsoring legislation requiring an investigation into the whereabouts of American citizens and others who have been missing in Cyprus since the conflict there in 1974. This issue has been festering for a long time, and we ought to do what we can to resolve it.

Five American citizens—and 1,614 Greek Cypriots—have been missing since that time, unheard of for nearly 20 years now. If they are alive, they are somewhere on the territory now held by the Turkish Cypriot Government, a government, incidentally, that we do not recognize. Turkish troops have propped up this rump government since Turkey's occupation of the northern third of the island in 1974.

It is my hope that our legislation will give us some answers, and will bring to an end the suffering of those held captive and their families. I ask my colleagues in the Senate to join with us in cosponsoring this bill.●

By Mr. HOLLINGS:

S. 1330. A bill to authorize a certificate of documentation for the vessel *Serena*; to the Committee on Commerce, Science, and Transportation

VESSEL "SERENA" ACT OF 1993

● Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Serena*, official No. 965317, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106.

The *Serena* was constructed in Newton, MA, in 1966 as a recreational vessel. It is 43.7 feet in length, 12.7 feet in width, and 8 feet in depth, and is self-propelled.

The vessel was purchased on March 2, 1990, by Robert and Kathleen Murray of the Isle of Palms, SC. The vessel's owners purchased it with the intention of chartering it for short sailing tours. When the owners acquired the boat, they were unaware of the specific coastwise trade and fisheries restrictions of the Jones Act. Due to the fact that the vessel had previously been foreign owned, it did not meet the requirements for a coastwise license endorsement in the United States. Such documentation is mandatory to enable the owners to use the vessel for its intended purpose.

The owners of the *Serena* are thus seeking a waiver of the existing law because they wish to use the vessel in their chartering business. If they are granted this waiver, they intend to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Serena* to engage in the coastwise trade and fisheries of the United States.

Mr. President, I request that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 1330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel SERENA, United States official number 96517.●

By Mr. HOLLINGS:

S. 1331. A bill to authorize a certificate of documentation for the vessel *Whit Con Tiki*; to the Committee on Commerce, Science, and Transportation.

VESSEL WHIT CON TIKI ACT OF 1993

● Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Whit Con Tiki* official No. 663823, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106.

The *Whit Con Tiki* was constructed in Taiwan in 1983 as a recreational vessel. It is 43.7 feet in length, 14.3 feet in width, and 8 feet in depth, and is self-propelled.

The vessel was purchased on April 29, 1993, by James Green on behalf of Linda Green of Wadmalaw Island, SC. The vessel's owner purchased it with the intention of using it for short fishing charters. When the owner acquired the boat, she was unaware of the specific coastwise trade and fisheries restrictions of the Jones Act. Due to the fact that the vessel had been foreign built, it did not meet the requirements for a coastwise license endorsement in the United States. Such documentation is mandatory to enable the owners to use the vessel for its intended purpose.

The owner of *Whit Con Tiki* is thus seeking a waiver of the existing law because she wishes to use the vessel in her chartering business. If she is granted this waiver, she intends to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Whit Con Tiki* to engage in the coastwise trade and fisheries of the United States.

Mr. President, I request that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 1331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel WHIT CON TIKI, United States official number 663823.●

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 1332. A bill to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

FARMINGTON WILD AND SCENIC RIVER ACT

● Mr. LIEBERMAN. Mr. President, today, Senator CHRIS DODD and I are proud to introduce the Farmington Wild and Scenic River Act. This bill represents the resolution of nearly 20 years of disagreement about how best to preserve the natural splendor of the Farmington River in Connecticut. It is the companion bill to that introduced today in the House by our colleague, Congresswoman NANCY JOHNSON, whose own tireless efforts to find consensus on the fate of the Farmington were critical. The entire Connecticut congressional delegation has signed on as original cosponsors.

This is an unusual bill, Mr. President. While it seeks protection for the Farmington River under the Wild and Scenic Rivers Act, many of the requirements of the act have already been met. The Farmington River Study Committee, established nearly 6 years ago to negotiate the best protection strategy for the river while respecting landowner rights and town and community needs, has already completed a comprehensive management plan for the river. The four Connecticut towns which border the segment of the Farmington to be designated—Barkhamsted,

Canton, Colebrook, Hartland, and New Hartford—have already passed and enacted river protection zones. They have also agreed to abide by the comprehensive management plan—perhaps because they had a say in drafting it.

This kind of cooperative study and planning—between town governments and State and Federal agencies, conservation groups, recreational and energy interests—has given us a foundation of trust upon which to build. Our towns want wild and scenic status for the Farmington, and they want to be responsible for ensuring it remains that way.

This segment of the Farmington River that this legislation would designate wild and scenic draws tens of thousands of boaters, tubers, and sport fishermen each year. The river is densely wooded and winding before it drops sharply to a deep gorge framed by steep cliffs and boasting what the National Park Service has called spectacular white water. This area is known commonly as Satan's Kingdom, and it is the most heavily used stretch of the Farmington.

The Farmington River is also a critical tributary of the Connecticut River, particularly because it provides classic salmon habitat. Nearly all of Connecticut's sport fish species can presently be found in the Farmington, and the river is especially popular for its trout fishing.

The Farmington River has a long and fascinating history, and many of its historic sites are still standing and are already the subject of Federal protection and interest. The National Register of Historic Places lists three buildings, the 19th-century Chapin house in Pine Meadow, the Depression era CCC shelter in American Legion State Forest, and the early 19th century gothic revival stone Union Church in Riverton. Riverton also hosts the still operating Hitchcock Chair Factory, and the towns of New Hartford and Pine Meadow both have State and locally designated historic districts with many 19th-century buildings. Prehistoric sites have been uncovered throughout the area, and precolonial Native American settlements have also been identified.

Perhaps it is partly because we are accustomed to living with such history that our constituents feel so strongly about maintaining control of their land even as they agree to implement new land and utility management practices, to accept new river zones of protection, and other means of protecting the river.

Specifically, this bill would designate a 14-mile segment of the Farmington River in Connecticut to be administered by the Secretary of the Interior with the Farmington River Coordinating Committee as a recreational river. The bill directs the Secretary and the committee to manage the segment in accordance with the management plan already completed, directing them in particular to the instream flow analysis already completed by the National Park Service and the committee and directing them to allow the additional withdrawal of water only in emergencies. In addition, the bill specifically states that all lands along the newly designated segment of the river shall be managed by the owners of those lands.

Again, we are proud to introduce this bill on behalf of our constituents. They have done the hard work of finding resolution to a 20-year conflict, and we are delighted to assist them in the next phase of our joint effort to ensure that the Farmington continues to run free.

I ask unanimous consent that a copy of the bill appear in the RECORD.

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

S. 1332

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 "Farmington Wild and Scenic River Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) Public Law 99-590 authorized the study of 2 segments of the West Branch of the Farmington River, including an 11-mile headwater segment in Massachusetts and the uppermost 14-mile segment in Connecticut, for potential inclusion in the wild and scenic rivers system, and created the Farmington River Study Committee, consisting of representatives from the 2 States, the towns bordering the 2 segments, and other river interests, to advise the Secretary of the Interior in conducting the study and concerning management alternatives should the river be included in the wild and scenic rivers system;

(2) the study determined that both segments of the river are eligible for inclusion in the wild and scenic rivers system based upon their free-flowing condition and outstanding fisheries, recreation, wildlife, and historic values;

(3) the towns that directly abut the Connecticut segment (Hartland, Barkhamsted, New Hartford, and Canton), as well as the town of Colebrook, which abuts the major tributary of the segment, have demonstrated their desire for national wild and scenic river designation through town meeting actions endorsing designation;

(4) the 4 abutting towns have demonstrated their commitment to protect the river through the adoption of river protection overlay districts, which establish a uniform setback for new structures, new septic systems, sand and gravel extraction, and vegetation removal along the entire length of the Connecticut segment;

(5) during the study, the Farmington River Study Committee and the National Park Service prepared a comprehensive management plan for the Connecticut segment, the Upper Farmington River Management Plan, dated April 29, 1993, which establishes objectives, standards, and action programs that will ensure long-term protection of the outstanding values of the river and compatible management of the land and water resources of the river; and

(6) the Farmington River Study Committee voted unanimously on April 29, 1993, to adopt the Upper Farmington River Management Plan and to recommend that Congress include the Connecticut segment in the wild and scenic rivers system in accordance with the spirit and provisions of the Upper Farmington River Management Plan, and to recommend that, in the absence of town votes supporting designation, no action be taken regarding wild and scenic river designation of the Massachusetts segment.

SEC. 3. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) FARMINGTON RIVER, CONNECTICUT.—

"(A) DESIGNATION AND MANAGEMENT.—The 14-mile segment of the West Branch and mainstem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut, to the downstream end of the New Hartford-Canton, Connecticut, town line (referred to in this paragraph as the 'segment'), to be administered by the Secretary of the Interior in cooperation with the Farmington River Coordinating Committee established under paragraph (B) as a recreational river. The segment shall be managed in accordance with the Upper Farmington River Management Plan, dated April 29, 1993, adopted on April 29, 1993 by the Farmington River Study Committee (referred to in this paragraph as the 'Plan'). The Plan shall be deemed to satisfy the requirement for a comprehensive management plan pursuant to section 3(d) of this Act.

"(B) MANAGEMENT COMMITTEE.—Not later than 90 days after the date of enactment of this paragraph, there shall be established a Farmington River Coordinating Committee to assist in the long-term protection of the segment and the implementation of this paragraph and the Plan. The membership, functions, responsibilities, and administrative procedures of the Committee shall be as set forth in the Plan. The Committee shall not be a Federal advisory committee, and shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(C) FEDERAL ROLE.—(i) The Director of the National Park Service (referred to in this paragraph as the 'Director') shall represent the Secretary in the implementation of the Plan and the provisions of this Act with respect to the segment designated by this paragraph, including the review of proposed federally assisted water resources projects that could have a direct and adverse effect on the values for which the segment was established, as authorized under section 7(a) of this Act.

"(ii) Pursuant to sections 10(e) and 11(b)(1) of this Act, the Director may enter into cooperative agreements with the State of Connecticut, the towns of Colebrook, Hartland, Barkhamsted, New Hartford, and Canton, Connecticut, and the Committee. Such cooperative agreements shall be consistent with the Plan and may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the segment.

"(iii) The Director may provide technical assistance, staff support, and funding to assist in the implementation of the Plan.

"(iv) Notwithstanding section 10(c) of this Act, no portion of the segment designated by this paragraph shall become a part of the National Park System nor shall it be subject to

regulations that govern the National Park System.

"(D) WATER RESOURCES PROJECTS.—(i) In determining whether a proposed water resources project would have a direct and adverse effect on the values for which the segment designated by this paragraph was included in the national wild and scenic rivers system, the Secretary shall specifically consider the extent to which the project is consistent with the Plan.

"(ii) Congress finds that the existing operation of the Colebrook Dam and Goodwin Dam hydroelectric facilities, together with associated transmission lines and other existing project works, pursuant to licenses or exemptions granted under the Federal Power Act (16 U.S.C. 791a et seq.) and in effect on the date of enactment of this paragraph, is not incompatible with the designation of the segment referred to in subparagraph (A) as a component of the national wild and scenic rivers system, and will not have a direct and adverse effect on, nor unreasonably diminish, the values for which the segment was established. Notwithstanding any provision in this Act to the contrary, the designation of the river shall not affect the ability of the Federal Energy Regulatory Commission to license or relicense (including exempting from licensing) the continued operation of the Colebrook Dam and Goodwin Dam hydroelectric projects, together with associated transmission lines and other project works if such operation is consistent with the Plan.

"(iii) Notwithstanding any provision in this Act to the contrary, inclusion of the segment designated by this paragraph in the wild and scenic rivers system shall not impair the continued operation of the Colebrook Dam and Reservoir by the United States Army Corps of Engineers for the purpose of flood control.

"(iv) The Plan, including the detailed analysis of instream flow needs incorporated in the Plan and such additional analysis as may be incorporated in the future, shall serve as the primary source of information regarding the flows needed to maintain instream resources and the potential compatibility between resource protection and possible water supply withdrawals.

"(E) LAND MANAGEMENT.—(i) The zoning ordinances adopted by the towns of Hartland, Barkhamsted, New Hartford, and Canton, Connecticut, including the 'river protection overlay districts' in effect on the date of enactment of this paragraph, satisfy the standards and requirements of section 6(c) of this Act. For the purpose of section 6(c), such towns shall be deemed 'villages' and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply.

"(ii) Nothing in this Act shall authorize management by the Federal Government of lands that are not owned by the Federal Government. All lands along the segment and its tributaries shall be managed by the owners of the land.

"(iii) The Federal Government shall not acquire land along the segment or its tributaries for the purposes of wild and scenic river designation. Nothing in this Act shall prohibit Federal acquisition of land along the segment for other purposes, or the use of Federal funds administered by State or local agencies to acquire land along the segment.

"(F) MISCELLANEOUS.—Notwithstanding section 3(b), no distinct lateral boundary shall be established for the segment of the river designated by this paragraph, as set forth in the Plan.

"(G) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph.".●

● Mr. DODD. Mr. President, I rise in strong support of the Farmington Wild and Scenic River Act, being introduced in the Senate by my good friend and colleague, Senator JOE LIEBERMAN. Representative NANCY JOHNSON from Connecticut's Sixth Congressional District has been the driving force behind this legislation and will be introducing a similar measure in the House today.

The Farmington Wild and Scenic River Act is the culmination of years of work at the grassroots level by conservationists, developers, local and State governments, and regional planning organizations. It demonstrates that widely disparate interests can come together and, after a series of good faith negotiations, reach a mutually beneficial agreement on how best to preserve our natural assets while assuring prudent economic development.

In 1986, Congress passed legislation authorizing the Farmington River wild and scenic study and appointed a Farmington River study committee, comprised of representatives of major local interests. The study encompassed two segments of the upper Farmington River and examined issues such as the flow levels necessary to sustain recreation and fisheries management. This study served as a blueprint for a management plan for the uppermost section of the river in Connecticut and its adjacent lands.

What is truly remarkable about this effort is the fact that the Farmington River study committee has not only completed the study authorized by Congress, but has also gone ahead and developed a comprehensive management plan that everyone can live with. Traditionally, such a plan is developed after wild and scenic designation has been formally approved.

I commend the Farmington River study committee for taking this forward-thinking approach. In areas such as New England, where private property owners are justifiably protective of their rights and perhaps uncomfortable with the concept of Federal land management, an abrupt designation by the National Park Service might elicit some concern. In this case, however, local interests, including private property owners, have already participated in management planning and have endorsed an integrated management scheme based on local control. The plan involves no land acquisition; it will utilize the interpretive and other technical resources of the National Park Service but will be administered by a local advisory committee.

Mr. President, Connecticut is a small State—only 5,000 square miles—with a fascinating and beautiful estuarine topography. However, we are also a densely populated State with precious little pristine area intact. Moreover, Connecticut ranks last in the Nation in Federal parkland and our only national park, the J. Alden Weir Historical Site, is situated on a mere two acres.

Traditional Federal parkland designations are incompatible with such a densely populated State; and yet the imperative to preserve our precious natural resources remains critical. Fortunately, however, the wild and scenic designation in general, and the Farmington River study committee management plan in particular, provide the answer. This legislation will ensure that this beautiful portion of the Farmington River will be protected for the recreation and enjoyment of current and future generations, without unduly infringing on the rights of local private interests.

I hope that the Farmington River Wild and Scenic Act will serve as a model for other communities facing similar dilemmas. It is a modest and well-thought-out piece of legislation that I believe merits the support of my colleagues. I congratulate the Farmington River study committee and others who contributed to this effort on a job superbly done. I also thank my colleagues, JOE LIEBERMAN and NANCY JOHNSON, for their leadership on this issue. ●

By Mr. HARKIN (for himself, Mr. DANFORTH, and Mr. BOND):

S. 1334. A bill to designate the facility of the U.S. Postal Service located at 401 South Washington Street in Chillicothe, MO, as the "Jerry L. Litton United States Post Office Building," and for other purposes; to the Committee on Governmental Affairs.

JERRY L. LITTON U.S. POST OFFICE BUILDING

● Mr. HARKIN. Mr. President, I rise to introduce a bill which will recognize the legacy of a friend, a former Member of the U.S. Congress and a great American. The bill that I am introducing today would dedicate a U.S. Post Office Building located in Chillicothe, MO, to the legacy and memory of Jerry Litton, the late Congressman from the Sixth District of Missouri. A similar bill has been introduced and passed by the House of Representatives.

Mr. President, Congressman Litton and I served together in the House and the districts we represented at the time bordered each other. I knew him as a tireless public servant and respected him as a legislator and statesman. Jerry was elected to Congress in 1972. Two years later, the year I was elected to the House of Representatives, Jerry won reelection with 79 percent of the vote. Two years after that, in 1976, Jerry entered the Democrat primary for the U.S. Senate. He won that primary on August 3, 1976, after a tough campaign. Jerry, his wife, and their two children boarded a plane from his home in Chillicothe to attend a victory celebration in Kansas City. He never made it. The plane carrying Jerry and the Litton family crashed

outside of his hometown. There were no survivors.

Mr. President, Jerry Litton was a great Congressman and a good friend. The tragic accident that took the lives of Jerry and his family was a terrible loss to our Nation, the people of Missouri, the people of his Sixth District and all those who knew him. I know that America would be a better place today had he lived.

Mr. President, I am proud to be joined by Senators DANFORTH and BOND in introducing this legislation. And, I urge my colleagues to support this bill to honor Jerry L. Litton and I ask unanimous consent that a copy of this bill be printed in the RECORD.

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

S. 1334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JERRY L. LITTON UNITED STATES POST OFFICE BUILDING.

The facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, is designated as the "Jerry L. Litton United States Post Office Building".

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. D'AMATO, Mr. BYRD, Mr. GRAHAM, Mr. BREAUX, and Mrs. BOXER):

S. 1333. A bill to improve the admissions process at airports and other ports of entry, to strengthen criminal sanctions for alien smuggling investigatory authority of the Immigration and Naturalization Service; to the Committee on the Judiciary.

EXPEDITED EXCLUSION AND ALIEN SMUGGLING ACT

Mr. KENNEDY. Mr. President, I am pleased today to join with my colleague on the Judiciary Subcommittee on Immigration and Refugee Affairs, Senator SIMON, as well as Senators DECONCINI, FEINSTEIN, D'AMATO, BYRD, GRAHAM, BREAUX, and BOXER, in introducing the President's proposed Expedited Exclusion and Alien Smuggling Enhanced Penalties Act of 1933.

This legislation represents a bipartisan effort to protect our asylum system from abuse and to deal with the escalating problem of alien smuggling. Since our subcommittee hearing on the subject on May 28, 1993, all members of the subcommittee have worked cooperatively with the administration's special task force in drafting this legislation. Earlier, both Senator SIMPSON and I signaled our concern over the abuse of the asylum laws at our ports of entry by introducing or drafting special legislation to deal with the problem.

After extensive consultation, and drawing upon both our bills, the President announced last week his proposal to deal with alien smuggling and the steps needed to protect the integrity of our asylum procedures at our ports of entry from those who are arriving with no documents, fraudulent documents, or in an alien smuggling situation.

Mr. President, I believe the proposed legislation strikes an appropriate balance between our Nation's need to enforce our immigration laws and our long tradition of protecting the ability of refugees to seek safe haven in the United States.

Mr. President's proposal keeps intact the best of our Nation's asylum process. Unlike the proposals of the previous administration, this legislation establishes a procedure and a standard that will ensure a fair and judicious system of screening asylum applicants at ports of entry.

Rather than simply allowing a regular immigration inspector to interview the applicant, the proposed legislation requires that it be done by an experienced asylum officer, knowledgeable in asylum law, as well as the country conditions where the alien is coming from. In addition, it provides for an independent review of the first asylum officer's decision by a special for appellate asylum officer under the separate jurisdiction of an office in the Department of Justice.

While these proceedings will be administrative and nonadversial, the applicants will have the right to counsel, to present evidence, and to take any reasonable time they need. The appellate asylum officer can even undertake a de novo review of the case if he deems it necessary.

Equally important, Mr. President, the standard for screening-in and screening-out frivolous claims will be based upon a substantial likelihood it is a winning asylum case. This places the standard squarely in the middle between the existing credible fear standard used on occasion by INS and the lowest standard of nonfrivolous.

This new standard is appropriate to the circumstances. By admitting only those persons with a substantial likelihood of winning an asylum claim, it is tough enough to curb the flagrant abuses of the smuggling syndicates while giving true refugees a fair claim at asylum.

This legislation also conforms with procedures mandated last year by the U.N. High Commissioner for Refugees for the treatment of asylum seekers in expedited exclusion circumstances. Those procedures require that asylum cases be referred to a higher authority with asylum responsibilities. This role is fulfilled not only by the INS asylum officer, but more importantly by the asylum review official in the Justice Department.

UNHCR guidelines also require that applicants be informed of the process for handling their claims and have access to a qualified interpreter and counsel—all of which are part of the procedure proposed by the President.

Mr. President, this legislation is targeted at a very special and narrow category of abuse of our asylum system—those aliens arriving without documents, with fraudulent documents, or in an alien smuggling situation. But this does not mean that simply arriving with improper documents excludes one from being screened-in for asylum processing.

Often, the only way that persecuted people can flee oppression is by using false documents. Repressive governments tend not to issue passports to its opponents. And refugees are often afraid to approach one of our embassies to obtain a visa. The President's proposal recognizes this reality, and ensures that refugees who seek entry with false documents or no documents can still apply for asylum. In fact, under certain circumstances, the proven need to use fraudulent documents to escape imminent harm will add to the credibility of the claim for asylum.

Finally, the President's proposed legislation will strengthen our alien smuggling laws which are clearly out of date, bringing them on a par with our laws against drug smuggling.

Under current law and sentencing guidelines, an offender smuggling cigarettes into the United States faces far more severe penalties than if he were found smuggling aliens. This makes no sense, and it is time we clamped down on the traffickers in a modern-day slave trade.

Mr. President, I believe the President's proposal represents a genuine, bipartisan compromise to deal with an undeniable problem—the growing abuse of our Nation's asylum laws at ports of entry by smugglers and others seeking employment in the United States.

It is a measured response that protects the integrity of our asylum system, while establishing a fair process that ensures review and regular oversight. And hopefully it will end the ability of alien smugglers to believe they can evade our Nation's immigration laws and exploit men and women who are only seeking better lives.

ILLEGAL ALIEN INITIATIVES

Finally, Mr. President, in addition to introducing the administration's legislative reform package on expedited exclusion of illegal aliens and increased penalties for criminal alien smuggling, the President announced his intention to seek an additional $171.5 million in fiscal year 1994 resources to support initiatives designed to curb illegal immigration and smuggling. Those resources will support the following programs.

The administration's initiatives address illegal immigration generally, and alien smuggling and counterterrorism specifically. They are designed to: First, prevent illegal entry

into the United States; second, expedite procedures for the removal and deportation of excludable aliens and felons; and third, deter smuggling and illegal entry through increased criminal penalties and sanctions.

For the RECORD, here is a listing of the proposed new initiatives:

I. PREVENTION

These measures are designed to prevent individuals not eligible to enter the U.S. from gaining entry. They especially deal with preventing the entry of terrorists, drug smugglers, and felons.

A. *Visa Issuance Data:* The Department of State is undertaking a major three year program to upgrade the quality and extent of its ability to issue fraud proof, machine readable travel documents to visa and passport holders and to ensure that visas are issued only to individuals who have legitimate reasons for entering the United States. This effort includes:

Tightening internal control procedures and reviewing consular operations to minimize opportunities for human error in the issuance of travel documents;

Ensuring a complete automated name check of all non-immigrant visa applicants through the Consular Lookout Support System (CLASS) over the next 3 (instead of 5) years;

Installing an interim, computerized Distributed Name Check (DNC) system to cover the 106 posts not currently on-line with CLASS until that system is fully available;

Accelerating the worldwide implementation of the Machine Readable Visa (MRV) program from 9 to 3 years to ensure secure visa documents;

Making U.S. passports more secure by digitizing passport photos and by installing an on-line computer system to prevent multiple passports being issued to the same person;

Providing an upgraded worldwide telecommunications backbone to support CLASS and to allow Consular Officers to share critical information immediately with INS, FBI, and other government agencies.

This program requires a total of $107.5 million over FYs 94–95.

B. *Closing Visa Loopholes:* State, INS, and Labor are working to close a visa loophole that has been used by some entrants to circumvent the restrictions on H–1 work visas (which are for employment in the US) by requesting B–1 business visas (which are for conducting business in the US on behalf of a foreign entity). Labor has recently noticed the B–1/H–1 problem in the area of computer programming. State and INS have published or will shortly publish in the Federal Register (for public comment) agency rule changes that makes clear that B–1 visas may not be used for employment in the US. This initiative does not require funding.

C. *Pre-Inspection:* Pre-Inspection involves INS officers at overseas airports where they examine travel documents before passengers board U.S. bound aircraft. Pre-Inspection denies boarding to inadmissible travelers while, more importantly, facilitating legitimate travel by allowing admissible travelers to by-pass INS upon arrival in the U.S. INS currently pre-inspects passengers in Canada, The Bahamas, Bermuda, Aruba, and Ireland and conducted a 4-month trial test of the same program in London. In the London trial test alone INS intercepted 433 inadmissible aliens, including three Bader-Meinhof terrorists. INS and State will seek to expand the program with additional foreign governments in a step-by-step, pilot program approach to ensure the effort is cost-effective. This program will require $25.7 million in FY 94; $15 million is already budgeted.

D. *Carrier Consultant Program:* This ad hoc program, which parallels pre-inspection, involves INS officers training and assisting airline officials overseas in spotting and rejecting travelers with fraudulent documents. The INS officers move among international airports identified as high risk for inadequately documented passengers. They stay approximately 2 weeks during which time it has been observed that the number of fraudulent documents diminish or cease. Last year, INS intercepted 265 travelers through this program. As a result, airline companies avoided about $700,000 in fines which makes this a popular program in the airline industry. INS has expanded its the program and will visit 30 cities this fiscal year. INS will make the program permanent in FY 94 and will seek wider access in the overseas airports visited. This program requires $2 million in FY 94.

E. *Carrier Cooperative Initiative:* This initiative would offer airlines a program of cooperation with INS. The airlines would agree to assist INS more actively in preventing the entry of improperly documented aliens, e.g., checking travel documents twice before boarding and/or immediately before deplaning. INS would not impose the $3000/person fines if improperly documented aliens were still able to enter despite reasonable airline prevention efforts. INS and airlines would sign a memorandum of understanding and conduct a 6-month review to determine if fraud was reduced before fine mitigation was allowed. Large-scale fraud recurrence would cause fines to be reinstituted. This program requires no funding.

F. *Border Patrol:* This program would increase Border Patrol personnel and buy more equipment. We will also look closely at training and procedures along the border. This program requires $45.1 million in FY 94.

G. *International Repatriation:* The President will certify to the Judiciary Committees of the House and Senate that an immigration emergency exists, thereby allowing up to $6 million to be available from the Immigration Emergency Fund (IEF) to finance repatriation of smuggled aliens intercepted outside the U.S. These funds will allow us to return 3500–4000 non-refugee, smuggled alien migrants to their countries of origin, as was the case earlier in Kwajalein, Honduras, and Mexico (not the most recent incident where the Government of Mexico paid for repatriation). Lest the $6 million drawdown prove inadequate, the Administration will request $6 million for FY 94 as an IEF replenishment for the $6 million drawdown. In that way, the replenished IEF could be used for alien smuggling or other emergency immigration issues. This program will require $6 million in FY 94.

II. REMOVAL

These measures are designed to assist INS in removing illegal aliens from the United States, both those who arrive at the border and those already in the US.

A. *Expedited Exclusion:* This legislative proposal is discussed in a separate fact sheet. This program will cost $31.2 million in FY 94.

B. *Regulatory Reform of the Affirmative Asylum Process:* As a companion effort to the expedited exclusive legislation which addresses the abuse of asylum laws at ports of entry, the Administration, led by Justice, will undertake a comprehensive review of regulations governing our affirmative asylum procedures. The goal of this effort is (1) to reduce the 275,000 backlog of affirmative asylum adjudications (claims filed by aliens who are already in the United States) by establishing a mechanism for eliminating stale claims, and (2) to promulgate new regulations which would provide for prompt and fair resolution of the claims and allow INS to remain current in its adjudications. Regulations governing the affirmative asylum process currently provide for several layers of de novo and appellate review. INS is undertaking an effort with the non-governmental community to streamline these procedures. The procedures will be ready by the end of September. Securing funding for additional adjudicatory personnel (e.g., members of the asylum corps) is also part of this initiative. This program requires $14.6 million in FY 94.

C. *Institutional Hearing Program (IHP):* IHP enables INS to start the deportation process for jailed alien felons while they are incarcerated so that when they are released they may be immediately deported. Roughly 25 percent of the U.S. prison population are aliens. The program currently covers six Federal prisons in California, Texas, Louisiana, Kentucky, and Kansas. INS would like to expand it to cover state institutions in five other states, encompassing 80 percent of the state prison population. The expansion would require additional INS and Executive Office of Immigration Review (EIOR) personnel. This program will require $10.9 million in FY 94.

D. *Advance Passenger Information System (APIS):* APIS is an electronic software system. Airlines provide the system with collected information on passengers travelling from foreign countries. (Currently, this information includes the traveller's name, date of birth, flight number, and intended port of arrival.) It allows Customs and INS to perform a computer name query of passengers prior to their arrival in the U.S. Those passengers from whom information is collected receive a sticker on their travelling documents and are processed through INS "Blue Lanes," which move much more quickly than the normal inspection lines. Customs also uses the information to determine which passengers to inspect closely. All but two U.S. airlines and a number of foreign carriers (33.5 percent of all passengers) voluntarily utilize APIS. The system is currently paid for by user fees. If all airlines utilized APIS and expanded the data collected from travellers, INS would obtain more immediate information as to who is in the country at any given time, and Customs would have more time to determine which travellers need a closer inspection upon arrival. Customs and INS are seeking to expand the use of the system and the data collected through high-level approaches to airline management and the loan of equipment to defray start up costs. Additional costs for the system would be borne by the carriers through user fees.

E. *Interagency Border Inspection System (IBIS):* IBIS is the INS-Customs database for querying passengers arriving in the country. IBIS is fully installed at 137 entry points; another 115 posts have access to IBIS, but are without a full complement of terminals; and 105 posts are scheduled for IBIS installation over the next 2 years. IBIS is currently not overseas, and Customs and State would like to install IBIS at three posts to determine whether visa lists and other travel information which can be obtained at embassies can augment IBIS on a cost effective basis. The pilot program would also allow State access to IBIS in an embassy setting. This represents an excellent opportunity to determine what improvements might be made to

69–059 O—97 Vol. 139 (Pt. 12) 47

State-Customs-INS data exchange. This program is a companion to the State effort to improve visa issuance. It requires $2 million in FY 94.

III. SANCTIONS

A. *Alien Smuggling Penalties:* These proposals are covered in the legislative package. There are no funding requirements.

Mr. President, not only has the administration developed an important response to this immigration challenge, but they have also come up with a plan for paying for it.

I ask to have included at the end of my statement an outline of the funding requirements of this far-reaching plan and the administration's program for funding it.

Roughly half of the $172.5 million needed to implement the plan will be derived at no expense to the taxpayer through various immigration fees charged those who travel or immigrate to the United States. The remaining amounts require transfers and appropriations, much of which was already included in the Justice Department appropriation adopted by the Senate yesterday.

Funding summary

Initiatives	*Millions*
I. Preventing illegal entry into the United States:	
Increasing Border Patrol resources—personnel and technology	$45.1
Improving VISA issuance procedures	45.0
Extending the Interagency Border Inspection System	2.0
Working with the airlines to improve security	12.7
Repatriation cost and contingencies	6.0
II. Removing and deporting illegal and criminal aliens expeditiously:	
Offering expedited exclusion legislation	31.2
Undertaking regulatory reform of the affirmative asylum process	14.6
Expanding the Institutional Hearing Program	10.9
Expanding the Advance Passenger Information System	2.0
III. Increasing criminal penalties and investigatory authorities:	
Offering rewards for information leading to the arrest and conviction of terrorists	5.0
Total increase required:	172.5
Financed through fees and other sources	87.0
New appropriations—Budget Authority—needed	85.5
Fees and other sources:	
INS user fee account	25.5
INS exams fee account	9.5
State Department user fee surcharge	45.0
Customs user fee account	2.0
Asset forfeiture fund	5.0
Total	87.0

Mr. President, I ask that the text of the President's bill, as well as a section-by-section analysis, be printed at this point in the RECORD.

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

S. 1333

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 "Expedited Exclusion and Alien Smuggling Enhanced Penalties Act of 1993."

SEC. 2. RESTRICTIONS ON ADMISSIONS FRAUD.

(a) EXCLUSION FOR FRAUDULENT DOCUMENTS OR FAILURE TO PRESENT DOCUMENTS.—Section 212(a)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking out "(C) MISREPRESENTATION" and inserting in lieu thereof the following:

"(C) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS"; and

(2) by adding at the end the following new clause:

"(iii) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who is required to present a document relating to the alien's eligibility to enter the United States prior to boarding a common carrier for the purpose of coming to the United States and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States is excludable.".

(b) PROVISIONS FOR ASYLUM AND OTHER DISCRETIONARY RELIEF.—(1) Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was pursuant to direct departure from a country in which the alien has a credible fear of persecution or of return to persecution.

"(2) Notwithstanding subsection (a), an alien who boards a common carrier for the purpose of coming to the United States through the presentation of any document which related or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was pursuant to direct departure from a country in which the alien has a credible fear of persecution or of return to persecution.

"(3) Notwithstanding subsection (a), an alien described in section 235(d)(3) may not apply for or be granted asylum, unless the person departed directly from a country in which the alien has a credible fear of persecution or of return to persecution.

"(4) Notwithstanding paragraphs (1), (2), and (3), the Attorney General may, in the Attorney General's sole discretion, permit an alien described in paragraph (1), (2), or (3) to apply for asylum.

"(5)(A) When an immigration officer has determined that an alien has sought entry under either of the circumstances described in paragraph (1) or (2) or is an alien described in section 235(d)(3) and the alien has indicated a desire to apply for asylum, the immigration officer shall refer the matter to an asylum officer who shall interview the alien to determine whether presentation of the document was pursuant to direct departure from a country in which the alien has a credible fear of persecution or of return to persecution, or, in the case of an alien described in section 235(d)(3), whether the alien had directly departed from such a country.

"(B) If the officer determines that the alien does not have a credible fear of persecution or of return to persecution in the country in which the alien was last present prior to attempting entry into the United States or arriving in the United States or a port of entry under the circumstances described in section 235(d)(3), the alien may be specially excluded and deported in accordance with section 235(e).

"(C) The Attorney General shall provide by regulation for the prompt review of a determination under subparagraph (B) that an alien does not have a credible fear of persecution or of return to persecution in the country in which the alien was last present. Such review shall be by an officer who shall possess qualifications at least equivalent to those of an asylum officer, who shall be employed by an agency or division independent of the Service, and who shall have discretion to review any aspect of the initial determination. The Attorney General shall provide for such special training for reviewing officers as the Attorney General may deem necessary.

"(D) The Attorney General shall provide information concerning the credible fear determination process described in this paragraph to persons who may be eligible for that process under the provisions of this subsection. An alien who is eligible for a credible fear determination pursuant to subparagraph (A) may consult with a person or persons of his or her choosing prior to the credible fear determination process or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(6) As used in this section, the term 'credible fear of persecution or of return to persecution' means that there is a substantial likelihood—

"(A) that the statements made by the alien in support of his or her claim are true; and

"(B) in light of such statements and country conditions,

"(i) that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A); or

"(ii) that the alien could be returned, without access to a full and fair procedure for refugee status determination, to a country with respect to which there is substantial likelihood that he or she could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).

"(7) As used in this subsection, the term 'asylum officer' means a person who—

"(A) has had extensive professional training in country conditions, asylum law, and interview techniques;

"(B) has been employed for at least one year in a position the primary responsibility of which is the adjudication of asylum claims or who has substantially equivalent experience; and

"(C) is supervised by an officer who meets conditions (A) and (B) above.".

(2) Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), any alien who has not been admitted to the United States, and who is excludable under section 212(a)(6)(C)(iii), or who is an alien described in paragraph (3), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply therefor or for any other relief under this Act, except that an alien found to have a credible fear of persecution or of return to persecution in accordance with section 208(e) shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both in the course of such proceedings.

"(2) An alien described in paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned under the provisions of this section only to a country in which he or she has no credible fear of persecution or of return to persecution. If there is no country to which the alien can be returned in accordance with the provisions of this paragraph, the alien shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both in the course of such proceedings.

"(3) Any alien who is excludable under section 212(a), and who has been brought or escorted under the authority of the United States: (a) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States, or (b) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States, shall either be detained on board the vessel on which such person arrived or in such facilities as are designated by the Attorney General or paroled in the discretion of the Attorney General pursuant to section 212(d)(5) pending accomplishment of the purpose for which the person was brought or escorted into the United States or to the port of entry; provided, however, that no alien shall be detained on board a public vessel of the United States without the concurrence of the Secretary of the Department under whose authority the vessel is operating.".

(3) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended—

(A) in the second sentence of paragraph (1) by striking out "Deportation" and inserting in lieu thereof "Subject to section 235(d)(2), deportation"; and

(B) in the first sentence of paragraph (2) by striking out "If" and inserting in lieu thereof "Subject to section 235(d)(2), if".

SEC. 3. SPECIAL PORT OF ENTRY EXCLUSION FOR ADMISSIONS FRAUD.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding after subsection (d) the following new subsection:

"(e)(1) Subject to paragraph (d)(2), any alien (including an alien crewman) who—

"(A) may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under section 212(a)(6)(C)(iii) of the Immigration and Nationality Act may be ordered specially excluded and deported by the Attorney General, either by a special inquiry officer or otherwise.

"(B) was brought to the United States pursuant to subsection (d)(3) and who may appear to an examining immigration officer to be excludable may be ordered specially excluded and deported by the Attorney General without any further inquiry, either by a special inquiry officer or otherwise.

"(2) Such special exclusion order is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an application who claims to have been lawfully admitted for permanent residence. A special exclusion order entered in accordance with the provisions of this subsection shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106.

"(3) Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 4. JUDICIAL REVIEW.

(a) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by changing the heading to read "JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION", and by adding at the end the following new subsection:

"(d)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of the special exclusion provisions contained in sections 208(e), 212(a)(6)(C)(iii), 235(d), and 235(e). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection, nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (d)(1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of: (i) whether the petitioner is an alien, if the petitioner makes a showing that his or her claim of United States nationality is not frivolous; (ii) whether the petitioner was ordered specially excluded; and (iii) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as is prescribed by the Attorney General pursuant to section 235(e)(2).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d). Any alien excludable under section 236, whether by order of court or otherwise, may thereafter obtain judicial review of any resulting final order of exclusion pursuant to subsection (b).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually excludable under section 212(a)(6)(C)(iii) or entitled to any relief from exclusion.".

(b) Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding after subsection (e) the following new subsection:

"(f) In any action brought for the assessment of penalties for improper entry or reentry of an alien under sections 275 and 276 of the Immigration and Nationality Act, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235, 236, and 242 of the Immigration and Nationality Act.".

SEC. 5. IMMIGRATION INSPECTION FEE INCREASE.

(a) Section 286(d) of the Immigration and Nationality Act (8 U.S.C. 1356) is amended—

(1) by striking out "$5" and inserting in lieu thereof "$6"; and

(2) by adding at the end of the subsection "*Provided*, That this subsection shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.".

(b) Section 286(e) of the Immigration and nationality Act (8 U.S.C. 1356) is amended by striking out Paragraph (1) and "(2)".

SEC. 6. ENHANCED PENALTIES FOR CERTAIN ALIEN SMUGGLING.

(a) Section 274(a)(1) of the Immigration and Nationality Act, (8 U.S.C. 1324(a)(1)), is amended by striking out "shall be fined in accordance with title 18, or imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs" and inserting in lieu thereof "shall, for each alien in respect to whom any violation of this paragraph occurs, be fined in accordance with title 18 or (i) in the case of a violation of subparagraph (A), imprisoned for not more than ten years, or both, and (ii) in the case of a violation of subparagraphs (B), (C), or (D), imprisoned for not more than five years, or both: Provided, that if during and in relation to the offense the person causes serious bodily injury (as defined in section 1365 of title 18) to, or places in jeopardy the life of, any alien, such person shall be fined in accordance with title 18, or imprisoned not more than twenty years, or both, and if the death of any alien results, shall be imprisoned for any term of years up to life.".

(b) Section 274(a)(2) of the Immigration and Nationality Act, (8 U.S.C. 1324(a)(2)), is amended by striking out "or imprisoned not more than five years, or both" and inserting in lieu thereof "or, in the case of a violation of subparagraph (B)(ii), imprisoned not more than ten years, or both; and, in the case of a violation of subparagraph (B)(i) or (B)(iii), imprisoned not more than five years, or both.".

(c) Section 1324 of title 8 of the United States Code is amended by adding at the end the following new subsection:

"(d) CONSPIRACY.—

"Whoever conspires to commit any offense defined in this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 7. SENTENCING GUIDELINES.

The United States Sentencing Commission shall promptly promulgate, pursuant to 28 U.S.C. 994, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 274 of the Immigration and Nationality

Act to reflect the increases in maximum penalties for such offenses in section 6 of this Act.

SEC. 8. EXPANSION OF FORFEITURE PROVISIONS.

Section 274(b) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324(b)) is amended—

(a) By amending paragraph (1) to read:

"(b) SEIZURE AND FORFEITURE.—(1) The following property shall be subject to seizure and forfeiture: (i) any conveyance, including any vessel, vehicle, or aircraft, which has been or is being used in the commission of a violation of subsection (a); (ii) any property, real or personal, (A) which constitutes, or is derived from or traceable to the proceeds obtained directly or indirectly from the commission of a violation of subsection (a), or (B) which is used to facilitate, or is intended to be so used in the commission of, a violation of subparagraph (a)(1)(A), except that—

"(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section, unless the owner or other person with lawful custody of the property was a consenting party to or privy to the violation of subsection (a) or of sections 274A(a)(1) or 274A(a)(2);

"(B) no property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner to have been committed or omitted by a person other than the owner while the property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

"(C) no property shall be forfeited under the provisions of this section to the extent of an interest of the owner, by reason of any act or omission established by the owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner unless the act or omission was committed or omitted by an employee or agent of the owner or other person with lawful custody of the property, with the intent of furthering the business interests of, or to confer any other benefit upon, the owner or other person with lawful custody of the property.";

(b) in paragraph (2)—

(1) by striking out "conveyance" both places it appears and inserting in lieu thereof "property"; and

(2) by striking out "is being used in" and inserting in lieu thereof "is being used in, is facilitating, has facilitated, is facilitating or was intended to facilitate"; and

(c) in paragraphs (4) and (5) by striking out "a conveyance" and "conveyance" each place the phrase or word appears and inserting in lieu thereof "property".

SEC. 9. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(a) in paragraph (c) by inserting after "weapons)," the following: "or a felony violation of section 1028 (relating to production of false identification documentation), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents),";

(b) by striking out "or" after paragraph (1) and redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(c) by inserting after paragraph (1) the following new paragraph:

"(m) a violation of section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to alien smuggling), or section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) (relating to the smuggling of aliens convicted of aggravated felons or of aliens subject to exclusion on grounds of national security), or of section 278 of the Immigration and Nationality Act (8 U.S.C. 1328) (relating to smuggling of aliens for the purpose of prostitution or other immoral purpose);".

SEC. 10. RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS ENFORCEMENT AUTHORITY.

Section 1961(1) of title 18, United States Code, is amended by striking out "or" before "(E) any act" and adding after "Currency and Foreign Transactions Reporting Act" the following: ", or (F) any act which is indictable under title 8, United States Code, section 1324(a)(1) (dealing with prohibitions on bringing in and harboring certain aliens)".

SEC. 11. INTERNATIONAL TERRORISM AWARDS.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting ", or relating to international terrorism as authorized by sections 3071 and 3072 of title 18" at the end thereof.

SEC. 12. EFFECTIVE DATE.

These amendments shall be effective upon enactment or October 1, 1993, whichever occurs later, and shall apply to aliens who arrive in or seek admission to the United States on or after such date. Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of these amendments at any time on or after their effective date, which regulations may become effective upon publication without prior notice or opportunity for public comment.

SECTION-BY-SECTION ANALYSIS—EXPEDITED EXCLUSION AND ALIEN SMUGGLING ENHANCED PENALTIES ACT OF 1993

These amendments to the Immigration and Nationality Act (the INA) would provide for the expedited exclusion of undocumented and falsely documented aliens, whether arriving at ports of entry, intercepted on the high seas and brought to the United States, or in United States waters, while ensuring that aliens with potentially meritorious asylum claims receive full and fair hearings. In addition, the "Expedited Exclusion and Alien Smuggling Enhanced Penalties Act" would enhance the ability of the Immigration and Naturalization Service (INS) to address the problem of alien smuggling by increasing the criminal penalties for alien smuggling, broadening the authority to obtain forfeiture of property use in or derived from smuggling operations, and providing INS with greater investigatory authority in combating international criminal organizations.

SECTION 1—Short Title.

Section 1 gives this bill the title "Expedited Exclusion and Alien Smuggling Enhanced Penalties Act of 1993."

SECTION 2—Restrictions On Admissions Fraud.

Section 2(a) adds to the categories of aliens excluded from admission to the United States under section 212(a) of the INA, 8 U.S.C. 1182(a), any person who seeks to enter with fraudulent, forged, or stolen documents, or who fails to present to the immigration officer any document produced when he or she boarded a common carrier for travel to the United States.

Section 2(b)(1) amends section 208 of the INA, 8 U.S.C. 1158, to provide that any alien excludable under the special exclusion provision added by subsection (a) of this Act may not apply for asylum, unless the alien shows that the fraudulent, forged, stolen, or unpresented document was used to depart from a country in which the alien had a credible fear of persecution or of return to persecution. This section would also provide that an alien may not apply for or be granted asylum if he or she has been brought or escorted under the authority of the United States: (a) into the United States, having been on board a vessel encountered seaward of the territorial sea by offices of the United States, or (b) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States, unless the alien departed directly from a country in which he or she had a credible fear of persecution or of return to persecution. In addition, the Attorney General may, in the Attorney General's sole discretion, permit an alien described in this subsection to apply for asylum.

If an alien in one of the categories described in this section wishes to seek asylum, he or she will be interviewed by a specially trained asylum officer. The asylum officer will determine whether the alien has the requisite credible fear of persecution or of return to persecution. If the alien does not have the requisite credible fear, the alien may be specially excluded and deported. Aliens found to have such fear will be permitted to apply for asylum.

This section also provides that the Attorney General shall promulgate regulations which provide for prompt review of a special exclusion order by an officer independent of the Immigration and Naturalization Service. The section expressly precludes any other form of appeal from such determination. The section further provides that the Attorney General shall provide information about the credible fear determination process to persons who may be eligible for it. In addition, this section specifies that an alien may consult with a person or persons of his or her choosing, according to regulations prescribed by the Attorney General, at no expense to the government, provided that this does not delay the proceedings.

Under this section, "credible fear of persecution or of return to persecution" exists if there is a substantial likelihood: (a) that the alien's statements are true, and (b) in light of these statements and country conditions, that the alien either could establish eligibility as a refugee within the meaning of section 102(a)(42)(A) of the INA, 8 U.S.C. 1101(a)(42), or could be returned to a country with respect to which there is a substantial likelihood he or she could establish such eligibility as refugee.

For the purpose of the credible fear determination, the "substantial likelihood" standard does not require a showing that the assertion or outcome in question is more probable than not to be true or to occur. In applying this standard, the relevant officials should bear in mind the purpose of the credible fear determination process to prevent bona fide refugees from being returned to a country of feared persecution.

This section also defines "asylum officer" to mean a person: (a) who has had extensive professional training in country conditions, asylum law, and interview techniques, (b) who has been employed for at least one year in a position the primary responsibility of which is the adjudication of asylum claims, or who has substantially equivalent experience, and (c) who is supervised by an officer who possesses at least the same experience.

Section 2(b)(2) amends section 235 of the INA, 8 U.S.C. 1225, to provide that an alien

who is ineligible for asylum under these amendments is also ineligible for withholding of deportation under section 243(h) of the INA, 8 U.S.C. 1253(h), and for any other form of relief under the INA, except that such a person can only be returned to a country in which he or she does not have a credible fear of persecution or of return to persecution.

Section 2(b)(3) makes conforming amendments to section 237(a) of the INA, 8 U.S.C. 1227(a).

SECTION 3—Special Port Of Entry Exclusion.

Section 3(a) amends section 235 of the INA, 8 U.S.C. 1255, to provide that an alien who is excludable under the provisions of Section 2(a) of these amendments may be specially excluded and removed from the United States without further inquiry or appeal, except in the case of a person claiming to be a lawful permanent resident. The special exclusion order may be entered either by the examining immigration officer or by an immigration judge.

This section also provides that an alien may be ordered specially excluded, without further inquiry or appeal, if the alien has been brought or escorted under the authority of the United States: (a) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States, or (b) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States.

Because a special exclusion order may be entered against an alien crewman, this section makes clear that the amendment is not intended to extend to alien crewmen a general right to an exclusion hearing before an immigration judge.

A special exclusion order will have the same legal effect as an exclusion order issued under section 236 of the INA, 8 U.S.C. 1226, except that the alien may not be returned to a country in which the alien has a credible fear of persecution or of return to persecution.

SECTION 4—Judicial Review.

Section 4 limits court jurisdiction to review any claims arising out of special exclusion to the alien's habeas corpus petition. New subsection (d) of section 106 of the INA, 8 U.S.C. 1105a, bars judicial review of special exclusion for admissions fraud except for habeas corpus inquiry limited to examination of whether the petitioner is an alien, has been ordered specially excluded, or is a permanent resident. The section also bars judicial review, except for habeas corpus inquiry, of a special exclusion order in the case of an alien who has been brought or escorted under the authority of the United States: (a) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States, or (b) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States. The section prohibits injunctive or declaratory relief except in habeas corpus actions as specifically provided therein.

New subsection (f) of section 235 of the INA, 8 U.S.C. 1225, provides that judgments of exclusion, special exclusion, or deportation may not be collaterally reviewed in any action for the assessment of penalties for improper entry or re-entry of aliens under sections 275 and 276 of the INA, 8 U.S.C. 1325 and 1326.

SEC. 5—Immigration Inspection Fee Increase.

Section 5 would increase from $5 to $6 the immigration user fee charged commercial aircraft and vessel passengers. The prohibition on assessing the fee against vessel passengers whose journeys originated in Canada, Mexico, U.S. territories or possessions, or adjacent islands, generally would be deleted. However, passengers arriving by international ferries or vessels on the Great Lakes and connecting waterways, when operating on regular schedules, (i.e., commuter ferries) would not be assessed the fee.

SEC. 6—Enhanced Penalties for Certain Alien Smuggling.

Section 6 amends section 274 of the INA, 8 U.S.C. 1324, to provide increased penalties for alien smuggling in certain situations. Currently, section 274(a)(1) provides for punishment of up to five years' imprisonment. The first amendment raises the authorized punishment to ten years' imprisonment.

The second amendment provides for punishment of up to twenty years' imprisonment in cases in which the defendant causes serious bodily injury to or places in jeopardy the life of an alien in the course of the offense and up to life imprisonment if the death of any alien results.

The third amendment adds a new subsection to provide that a conspiracy to commit an offense under 8 U.S.C. 1324 shall carry the same penalty as that which applies to the substantive offense which was the object of the conspiracy. This is consistent with recent enactments in other areas (e.g., 18 U.S.C. 1956(g) and 21 U.S.C. 846). This provision would increase receipts in FY 1994 by less than $500,000.

SEC. 7—Sentencing Guidelines.

Section 7 directs the Sentencing Commission to make appropriate increases in the base offense level for alien smuggling offenses for which the maximum penalty was raised in section 6.

SEC. 8—Expansion of Forfeiture Authority.

Under current law, INS may obtain forfeiture of conveyances (vehicles, boats, aircraft) used to smuggle, transport, or harbor aliens. Section 8 would amend section 274(b) of the INA, 8 U.S.C. 1324(b), to broaden this forfeiture authority. The amendment makes subject to forfeiture all property, both real and personal, used or intended to be used to smuggle aliens. Also subject to forfeiture would be any property, real or personal, which constitutes, is derived from, or is traceable directly or indirectly to the proceeds of the smuggling, transportation, or harboring of aliens. The amendment protects owners from forfeiture of property that is used without the owner's knowledge or consent and not for the benefit of the owner or other lawful possessor.

SEC. 9—Wiretap Authority for Alien Smuggling Investigations.

Section 9 would amend section 2516(1) of Title 18, United States Code, to permit INS, with judicial authorization, to intercept wire, electronic, and oral communications of persons involved in alien smuggling operations.

SEC. 10—Racketeering Influenced and Corrupt Organizations Enforcement Authority.

Section 10 would amend the definitions provided in the RICO statute, 18 U.S.C. 1961(1), to authorize the use of the RICO statute to pursue alien smuggling organizations.

SEC. 11—International Terrorism Awards.

Section 11 would permit the use of funds appropriated annually to the Department of Justice Assets Forfeiture Fund to pay awards for information related to acts of terrorism primarily within the territorial jurisdiction of the United States as authorized by sections 3071 and 3072 of title 18, United States Code.

SEC. 12—Effective Date.

The amendments made by this Act will take effect upon enactment or October 1, 1993, whichever occurs last, and apply to aliens who arrive in, or seek admission into, the United States on or after the date of enactment. The Attorney General is given authority to promulgate interim final regulations which will become effective upon publication.

Mr. SIMON. Mr. President, I am pleased to join Senator KENNEDY, the chairman of the Subcommittee on Immigration and Refugee Affairs, and the other Senators both on and off the Judiciary Committee in introducing the administration's proposal to combat alien smuggling and to reduce the abuse of our asylum laws.

President Clinton said it correctly earlier this week when he announced this proposal. He said that we should welcome legal immigration and turn away illegal immigration. Today's proposal ensures that we will achieve control over our asylum system while still maintaining the essential humanitarian nature of the process.

The events of the past few months have provided a stark picture of what we will face if we do not address the shortcomings of our current laws and procedures. Alien smuggling is on the rise and our criminal laws have been ineffective to stem the tide. Under current law, although the maximum penalty is 5 years imprisonment and a $2,000 fine for alien smuggling, a first time offender who smuggles in 5 aliens receives only a 4- to 10-month sentence under the sentencing guidelines. Our bill doubles the maximum penalty to 10 years and directs the sentencing commission to make other appropriate increases. It also creates a 20-year penalty for smugglers if bodily harm to an alien occurs, and allows up to life imprisonment if an alien dies.

Alien smuggling is reprehensible and must be stopped. Alien smuggling is the equivalent of a modern day slave trade, build upon aliens' ransomed futures. Our Nation cannot stand for it and the Statue of Liberty does not stand for it. Instead, the way into the United States has been, and must be, built upon the legal immigration system: a system for which we increased the number of family and employment sponsored visas in 1990.

Our bill expedites the exclusion of individuals who do not have a credible fear of persecution and who abuse our immigration system by seeking to enter the country with fraudulent documents or no documents. By reducing the abuse in the system, this bill helps ensure that those truly fleeing persecution gain the safe haven that is our Nation's birthright. Under this bill, aliens who undergo expedited processing and are found to have a credible fear of persecution will be taken before a special inquiry officer for further proceedings at which they will be granted asylum if they can meet the more stringent well founded fear of persecution.

I look forward to joining Senator KENNEDY, Senator SIMPSON, the newest member of the Judiciary Committee, Senator FEINSTEIN, and other colleagues to enact this important legislation.

Mr. DECONCINI. Mr. President, I am pleased to join my colleagues in introducing a bipartisan bill to improve the admissions process at our airports and other ports of entry, to strengthen criminal sanctions for alien smuggling and related criminal activities, and to enhance the investigatory authority of the Immigration and Naturalization Service [INS].

The basic law which sets forth conditions under which aliens may enter the United States is the Immigration and Nationality Act of 1952 [INA], as amended. The Refugee Act of 1980 defines a refugee as "a person who is unwilling or unable to return to his country of nationality or habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in particular social group, or political opinion." Asylees are aliens who meet the definition of "refugee" and who are physically present in the United States or at a land border or port of entry.

The United States is also a signatory to international agreements on refugees that forbid the forced repatriation of individuals who fear persecution. While the number of aliens seeking asylum in the United States has increased dramatically in the past decade, only about one-half of one percent of the estimated 18 million refugees and asylees who have fled their homelands throughout the world sought asylum in the United States in 1992.

The growing abuse of this country's asylum laws disturbs me greatly. There is no question that we must do something to deter unscrupulous persons who enter this country illegally and file frivolous asylum claims. At the same time, we must be sure that we do not penalize legitimate asylees at the expense of those who abuse our system. Our immigration laws and policies must work together to deter illegal immigrants while protecting those who flee violence and persecution.

I believe the legislation we are introducing today fairly addresses some of the problems in our overburdened, inefficient and multilayered asylum process. This bill provides for the expedited exclusion of those persons who arrive at our ports of entry, or are intercepted on the high seas or in United States waters, either with no documentation or fraudulent, forged or stolen documents. If an alien wishes to apply for asylum, an immigration officer will refer the matter to a trained asylum officer who has extensive professional knowledge in country conditions, asylum law and interview techniques. The asylum officer must also have worked in a position of adjudicating asylum claims or equivalent experience for at least 1 year and will be supervised by an officer who also meets these conditions. The specially trained asylum officer will interview the alien to determine whether he or she has the requisite credible fear of persecution. The defendant will be allowed to have a translator and counsel at the interview. If the alien's claim is denied, the case can be appealed to the Department of Justice for prompt review by another specially trained asylum officer. If the alien is once again found to be ineligible for asylum, he or she may be specially excluded and removed from this country without further inquiry or appeal. There will be no judicial review except for a habeas corpus inquiry limited to the examination of whether the applicant is an alien and has been ordered specially excluded.

This bill addresses the problem of illegal immigration most prevalent at our international airports. In fiscal year 1991, the INS reported that 32,598 aliens arrived at our 10 major airports with fraudulent documents or no documents at all. In fiscal year 1992, 14,688 aliens arrived at JFK Airport in New York with improper documentation, of whom 9,180 claimed asylum. While the average asylum case is now processed in 6 months, approximately 261,000 cases remained undecided as of March 31, 1993.

Currently, upon arrival, an unscrupulous alien, with improper or no documentation, claims asylum knowing that he or she will probably not be detained due to overcrowded detention centers. The alien is given instructions to return for an asylum hearing several months later. He or she is then released, is given a work permit, but rarely shows up for the scheduled hearing before an immigration judge.

The case of Mir Amal Kanzi, who allegedly murdered two employees outside CIA headquarters in January of this year, exemplifies the inadequacies of our asylum system. When Mr. Kanzi arrived in this country he claimed political asylum. While his case was pending, Mr. Kanzi received a work document, Social Security card, and driver's license which ultimately enabled him to purchase an assault rifle.

Some of the suspects in the bombing of the World Trade Center are alleged to be followers of the radical Islamic preacher, Sheik Omar-Abdel Rahman. The sheik, known by our Government to be a terrorist, arrived here in 1990 on a tourist visa inadvertently issued by our embassy in Khartoum, Sudan. One of the reasons he remains in the United States is because of his pending political asylum case.

The bill will remedy these intolerable situations. It will also ensure that the legitimate asylum-seeker has a fair opportunity to present his or her case. It is important to note that when persons are fleeing persecution they are in a life and death situation and often carry fraudulent documents or no documents at all. The following case summaries from the Lawyers Committee for Human Rights describe the true stories of persons fleeing persecution.

Ms. K was a hairdresser and mother in her native Ghana. In 1984, her husband helped to found an organization to gather and report information concerning human rights abuses perpetrated by the Ghanian government. Though Ms. K was aware of some of the group's activities, she was not a member of the organization.

On August 28, 1989, Ms. K's husband was forced to leave Ghana because he learned from fellow members of his organization that he had been targeted for arrest. About three hours following her husband's departure, eight armed government soldiers broke into Ms. K's home searching for her husband. When she refused to tell them of his whereabouts, the soldiers began to beat Ms. K who was three and a half months pregnant with her second child. The soldiers remained in her home for over an hour, continually beating Ms. K and destroying the furniture while looking for evidence that her husband had been a member of the human rights group. Two nights later, and then again one week later, the soldiers returned to Ms. K's home suspecting that Ms. K's husband had come back. They beat her again and told her that she would suffer whatever punishment befell her husband unless she told them where he was hiding. On all three occasions, Ms. K was forced to seek medical attention for the injuries she received during the beatings.

On September 11, 1989, the soldiers returned for the fourth time and severely beat Ms. K. She was thrown on the ground and then one soldier stomped on her stomach and ribs with his boot. Fearing for her life, as well as the lives of her daughter and her unborn child, Ms. K decided to leave Ghana. When morning came, Ms. K and her seven year-old daughter fled to the Cote d'Ivoire and were placed in a refugee camp where they remained for three months. While in the camp, Ms. K befriended a French family who offered to help her get to Canada where, they told her, she would be able to obtain asylum. In later December, 1989, the French family gave Ms. K a passport and airline ticket to Canada. On December 30, 1989, Ms. K and her daughter landed in JFK International Airport and, while searching for her connecting flight to Canada, they were stopped by immigration officials because they were carrying false passports. She and her daughter were then placed in detention. Ms. K was nearly eight months pregnant at the time. On January 26, 1990, Ms. K and her daughter were granted parole from detention and began living with a Ghanian family in the Bronx. Soon after, she gave birth to a second daughter. Ms. K had an asylum hearing in the Immigration Court on January 15, 1991 and was granted asylum in the United States on February 25, 1991 * * *.

Mr. R, a Kurdish Iraqi national, joined the Patriotic Union of Kurdistan (PUK) in May of 1985 when he was fifteen years old. The PUK was the second largest Kurdish political party and strove to obtain political autonomy and fundamental human rights for Kurdish people. Mr. R joined the PUK to demonstrate his opposition to the violent dictatorship under Saddam Hussein and to the discriminatory treatment of the Kurdish people. Mr. R, as an active, though non-violent member of the PUK, was responsible for distributing literature criticizing Saddam

Hussein and for monitoring Iraqi government officials in his area.

In July 1987, a group of plain-clothed militia men came to Mr. R's house in the middle of the night to arrest him. Failing to find Mr. R at home, the men ransacked the house, beat his family members and took Mr. R's father away for questioning and declared that he would be released only after Mr. R and his brother, another PUK member, surrendered themselves to the authorities. Mr. R did not turn himself in because it would have not saved his father's life and because he would have been executed immediately. Three months later, he learned that his father had been killed. Fearing that he too would be killed, Mr. R decided to flee to Iran.

Mr. R began his journey from Iraq in December 1987. He walked through the mountains for twelve hours and crossed the border into Iran. He was immediately placed in a refugee camp with harsh conditions. After several months in the refugee camp, Mr. R decided to leave Iran. He purchased a false passport with a United States visa and a plane ticket bound for the United States. He arrived at JFK airport via a stopover in London on May 17, 1990 and destroyed his passport in transit. Upon arriving in the United States, he was detained by immigration officials at the Wackenhut INS Detention Facility in Queens, New York where he remained until he was granted asylum in the United States by the Immigration court on August 23, 1991 * * *.

The cases of Ms. K and Mr. R represent the terrifying experiences of legitimate political refugees. We must continue to protect those bona fide asylees who seek refuge in this country.

The alien smuggling enhanced penalties provisions of this bill address the despicable crime of smuggling human cargo for profit. In less than 2 years the INS has apprehended hundreds of passengers on several smuggling ships most of whom are from China's Fujian Province. After paying ruthless smugglers thousands of dollars for their lengthy journey to the United States, the Chinese immigrants face deplorable conditions aboard ship. For several months they live in cramped and filthy quarters with little food or fresh water. The immigrants become sick with the flu and high fevers, women are often abused by their guards, and many contemplate suicide. If they are fortunate to arrive in the United States alive, the smugglers continue to closely watch their cargo and demand exorbitant fees for their transport.

This type of inhumane slave trade must be stopped and those responsible must be brought to justice. Our laws currently penalize drug smugglers more than they penalize alien smugglers. This legislation increases the initial punishment for harboring aliens from 5 to 10 years imprisonment. A defendant can receive up to 20 years imprisonment if he or she causes serious bodily injury or places the life of an alien in jeopardy and up to life imprisonment if the death of an alien results. Our forfeiture laws are broadened to make all real or personal property used or intended to be used to smuggle aliens subject to forfeiture. Property traceable to the proceeds of the smuggling, transportation, or harboring of aliens is also subject to forfeiture. Furthermore, this bill authorizes the use of the Racketeer Influenced and Corrupt Organization [RICO] statute to pursue alien smuggling organizations.

Mr. President, I strongly urge my colleagues to support this measure. Americans are a compassionate people and we don't want to slam our doors on those who genuinely need our help. Nevertheless, we must send a message to the world that those who blatantly abuse our laws will be deterred and punished. Taking advantage of our generous and humanitarian immigration laws will not be tolerated.

This legislation addresses part of the immigration reform initiatives announced earlier this week by President Clinton. Some of the administration's other proposals to control our borders, of which I actively supported, were approved during committee consideration of the Commerce, Justice, State appropriations bill for fiscal year 1994. For example, I was successful in my efforts to include funding for the hiring, training, and equipping of at least 600 new border patrol agents. Funding was also obtained to enhance our alien detention and deportation activities and facilities on the Southwest border.

I would also like to take a moment to express my support for Attorney General Janet Reno's pledge to make the INS a priority. Furthermore, the selection of Doris Meissner to head the INS is another strong sign of the importance the administration places on U.S. immigration policy. I believe Ms. Meissner's long history in dealing with immigration issues will enable her to confront the challenging and complex problems that face the INS today. I will continue to work closely with my colleagues and the administration to pass this bill and ensure that we have adequate resources to effectively enforce our immigration laws and policies.

By Mr. KOHL:

S. 1335. A bill for the relief of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

MENOMINEE INDIAN TRIBE LEGISLATION

• Mr. KOHL. Mr. President, today I am introducing legislation that would provide to the Menominee Indian Tribe of Wisconsin an opportunity for which it has long awaited

Specifically, this bill gives the tribe an opportunity to be heard in the U.S. Claims Court on the merits of a series of claims against the United States resulting from enactment of the Menominee Termination Act of June 13, 1954, and the Government's mismanagement of Menominee assets held in trust by the United States prior to April 30, 1965, when the termination of government supervision of the Menominee Tribe and reservation became effective.

The bill I am introducing merely sets out the claims of the tribe. It is accompanied by a Senate resolution which—on enactment—will refer this bill to the chief judge of the U.S. Claims Court for judicial determination of facts for congressional use in deciding whether these claims merit legislative relief.

This referral passed in the Judiciary Committee in the 101st Congress, but Congress adjourned sine die before action could be completed on the resolution. And during the 102d Congress the measure passed out of the Subcommittee on Courts and Administrative Practices.

As a member of the Judiciary Committee and of the Courts and Administrative Practices Subcommittee to which this legislation will be referred, I'm looking forward to the opportunity of bringing its merits to the consideration of my colleagues.

While adoption of this resolution will send a series of seven claims to the Claims Court of evaluation, I want to emphasize that the court has no jurisdiction to award money damages for these claims, and that Congress is not obligated to follow the recommendations of the court, though it has often done so.

Mr. President, the congressional reference procedure is recognized by sections 1492 and 2509 of title 28 of the United States Code. It is designed so that the court may examine claims against the United States based on negligence or fault, or based on less than fair and honorable dealings, regardless of technical defenses that the United States may otherwise assert, especially the statute of limitations

The Menominee Tribe has seven related claims which appear to fit exactly into this mold. These are:

First, that the Menominee forest, held in trust from 1951 to 1961, was seriously undercut, and that the BIA, which knew that additional cutting was required, breached its trust by failing to advise Congress of the need to raise the statutory ceiling from 20 million board feet annually;

Second, that the BIA, in carrying out its trust duties in the management of the tribe's mill, negligently failed to replace worn out equipment and make necessary changes in plant design and procedures;

Third, that the Federal Government breached its duty to the tribe by negotiating a right-of-way agreement with the Wisconsin Power and Light Co. that was unfair and discriminatory;

Fourth, that the Government failed to maintain and operate properly water and sewage facilities on the reservation, to the damage of the tribe;

Fifth, that the Government mismanaged tribal funds;

Sixth, that the Termination Act breached the trust by subjecting the tribal forest to State management restrictions to the detriment of the tribes's interests; and

Seventh, that the Termination Act unfairly deprived the tribe of its exemption from State taxation guaranteed by its treaty with the Federal Government.

In summary, the tribe charges that it and its members suffered grievous economic loss from BIA mismanagement of its resources and through legislative termination of its rights.

The tribe initially filed suit on these claims, and though it obtained favorable trial court judgements on them, an appellate court in 1984 dismissed the suit on technical grounds without disturbing the factual findings which essentially upheld the tribe's position.

While the now-defunct Indian Claims Commission specifically had jurisdiction to hear claims based on less than fair and honorable dealing, these claims accrued after the time for filing of such claims before the Commission expired. The grant of jurisdiction to the Court of Claims, and now to the Claims Court, does not include jurisdiction to hear claims based on less than fair and honorable dealing.

In holding certain of the claims were time barred, the Court of Appeals made an unusually strict interpretation of the statute. It held that the statute of limitations continued to tick throughout and 1950's even as to claims the tribe was unaware of. Menominee Tribe of Indians versus United States 726 F.2d 718, 721 (1984).

However, during the period after the Termination Act of 1954, when the claims could have been filed in a timely fashion, the Menominee faced circumstances that were adverse in the extreme. While on the one hand desperately seeking to avert or delay termination, they tried on the other hand to carry out the statutory plan as best they could.

Congress has long since acknowledged that the Menominee Termination Act was a tragic error which brought the Menominee Tribe to the brink of economic, social, and cultural disaster. In 1973, the tribe was restored to Federal recognition and tribal status by action of the Congress. But the damages the tribe suffered under termination are yet to be redressed.

Mr. President, adoption of this resolution will permit the Claims Court to adjudicate these claims on their merits and make appropriate recommendations to Congress in the interests of justice.

I ask unanimous consent that the full texts of my bill be printed in the RECORD.

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

S. 1355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of the Treasury is authorized and directed to pay to the Menominee Indian Tribe of Wisconsin, out of any money in the Treasury of the United States not otherwise appropriated, a sum equal to the damages sustained by the Menominee Indian Tribe of Wisconsin by reason of—

(a) the enactment and implementation of the Act of June 17, 1954, (68 Stat. 250), as amended, and

(b) the mismanagement by the United States of Menominee assets held in trust by the United States prior to April 30, 1961, the effective date of termination of Federal supervision of the Menominee Indian Tribe of Wisconsin.

SEC. 2. Payment of the sum referred to in section 1 shall be in full satisfaction of any claims that the Menominee Indian Tribe of Wisconsin may have against the United States with respect to the damages referred to in such section.●

By Mr. HATCH:

S. 1336. A bill to increase the fee for the enforcement of the Tea Importation Act, and for other purposes; to the Committee on Labor and Human Resources.

TEA IMPORTATION ACT AMENDMENT ACT OF 1993

Mr. HATCH. Mr. President, earlier this week, when the Senate considered H.R. 2493, fiscal year 1994 appropriations for the Agriculture Department and related agencies, we adopted an amendment offered by Senator REID to eliminate Federal support for the Board of Tea Experts. A similar provision is included in the House-passed measure.

For those of my colleagues who are not familiar with the Board, this body was established in 1897 to make certain that impure and unwholesome tea products were not imported into the United States.

The Board, which sets standards for imported tea, is composed of a panel of outside experts, and is staffed by three Food and Drug Administration employees.

There is absolutely no controversy over the function of the Board; the only concern that has been expressed is over Federal support for the Board. At present, the Board receives an appropriation of $130,000, and industry contributes $70,000 in user fees.

The legislation I am introducing today provides for total industry support of the Board of Tea Experts through a fee on imported tea or tea merchandise. It is an amendment which makes good sense and I plan to work with my colleagues on the Labor and Finance Committees to see that it is moved forward at the earliest possible date.

ADDITIONAL COSPONSORS

S. 376

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 376, a bill to prohibit the transfer of 2 or more handguns to an individual in any 30-day period.

S. 540

At the request of Mr. HEFLIN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 540, a bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

S. 549

At the request of Mr. DOMENICI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 557

At the request of Mr. HATCH, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 557, a bill to combat telemarketing fraud.

S. 561

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 561, a bill to establish a child and family services and law enforcement partnership program, and for other purposes.

S. 719

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 719, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 775

At the request of Mr. WALLOP, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 775, a bill to modify the requirements applicable to locatable minerals on public lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 798

At the request of Mr. BRYAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 798, a bill to amend the Federal Fire Prevention and Control Act of 1974 to establish a program of grants to States for arson research, prevention, and control, and for other purposes.

S. 839

At the request of Mr. HOLLINGS, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 839, a bill to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes.

S. 881

At the request of Mr. DODD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 881, a bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical

corrections in the Civic Education Program, and for other purposes.

S. 936

At the request of Mr. CHAFEE, the names of the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 936, a bill to amend title XVIII of the Social Security Act to eliminate the annual cap on the amount of payment for outpatient physical therapy and occupational therapy services under part B of the Medicare Program, and for other purposes.

S. 1105

At the request of Mr. COATS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of individual medical savings accounts to assist in the payment of medical and long-term care expenses, to provide that the earnings on such accounts will not be taxable, to allow rollovers of such accounts into individual retirement accounts, and for other purposes.

S. 1125

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1125, a bill to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

S. 1154

At the request of Mr. DECONCINI, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1154, a bill to amend the Foreign Assistance Act of 1961 to provide for the establishment of a Microenterprise Development Fund, and for other purposes.

S. 1209

At the request of Mr. KEMPTHORNE, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1209, a bill to provide for a delay in the applicability of certain regulations to certain municipal solid waste landfills under the Solid Waste Disposal Act, and for other purposes.

S. 1218

At the request of Mr. PELL, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1218, a bill to authorize appropriations for fiscal years 1994 and 1995 to carry out the National Foundation on the Arts and the Humanities Act of 1965, and the Museum Services Act, and for other purposes.

S. 1276

At the request of Mr. LEAHY, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nevada [Mr. REID], the Senator from Wisconsin [Mr. KOHL], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Tennessee [Mr. MATHEWS], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 1276, a bill to extend for 3 years the moratorium on the sale, transfer or export of anti-personnel landmines abroad, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. DANFORTH], the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Florida [Mr. MACK], the Senator from Colorado [Mr. BROWN], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. D'AMATO], the Senator from New Jersey [Mr. BRADLEY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. COATS], the Senator from Delaware [Mr. BIDEN], the Senator from Michigan [Mr. RIEGLE], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Maryland [Ms. MIKULSKI], the Senator from North Carolina [Mr. HELMS], the Senator from Oklahoma [Mr. BOREN], the Senator from Alabama [Mr. HEFLIN], the Senator from Illinois [Mr. SIMON], the Senator from Tennessee [Mr. SASSER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Washington [Mr. GORTON], the Senator from Montana [Mr. BURNS], the Senator from Utah [Mr. HATCH], the Senator from Missouri [Mr. BOND], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Ohio [Mr. GLENN], the Senator from Nevada [Mr. BRYAN], the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Wisconsin [Mr. KOHL], the Senator from Virginia [Mr. ROBB], the Senator from North Dakota [Mr. CONRAD], the Senator from Oklahoma [Mr. NICKLES], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wyoming [Mr. WALLOP], the Senator from New Hampshire [Mr. SMITH], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate the week beginning September 19, 1993, as "National Historically Black Colleges and Universities Week".

SENATE JOINT RESOLUTION 94

At the request of Mr. DOLE, the names of the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 94, a joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "National Customer Service Week".

SENATE JOINT RESOLUTION 99

At the request of Mr. DECONCINI, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating September 9, 1993, and April 21, 1994, each as "National D.A.R.E. Day".

SENATE JOINT RESOLUTION 115

At the request of Mr. COCHRAN, the names of the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 115, a joint resolution designating November 22, 1993, as "National Military Families Recognition Day".

SENATE JOINT RESOLUTION 117

At the request of Mr. BIDEN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Kansas [Mr. DOLE], the Senator from Connecticut [Mr. DODD], the Senator from California [Mrs. BOXER], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. SIMON], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KOHL], the Senator from Hawaii [Mr. AKAKA], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. MOYNIHAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 117, a joint resolution to designate August 1, 1993, as "National Incest and Sexual Abuse Healing Day".

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. DODD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 117

At the request of Mr. DECONCINI, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Resolution 117, a resolution to express the sense of the Senate that the Olympics in the year 2000 should not be held in Beijing or elsewhere in the People's Republic of China.

AMENDMENT NO. 739

At the request of Mr. CHAFEE his name was added as a cosponsor of

Amendment No. 739 proposed to H.R. 2403, a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes.

At the request of Mr. SIMON the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Tennessee [Mr. MATHEWS] were added as cosponsors of Amendment No. 739 proposed to H.R. 2403, supra.

SENATE RESOLUTION 136—RELATIVE TO HORACE MARTIN

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 136

Resolved, That the bill (S. 1325) entitled "A bill for the relief of Horace Martin," now pending in the Senate, together with all accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such finding of fact and conclusions that are sufficient to inform Congress of the amount, if any, legally or equitably due from the United States to the claimant.

Mr. THURMOND. Mr. President, I rise today to introduce a bill for the relief of Horace Martin, a resident of South Carolina. In addition, I am also introducing a resolution so that this claim may be considered by the U.S. Claims Court.

Mr. President, the facts of this case are simple. Mr. Martin purchased property at a tax sale conducted by the Internal Revenue Service. Before deciding to make this purchase, Mr. Martin claims he relied upon the statements of an IRS agent and IRS forms which declared that there were no liens on the property that were senior to the IRS liens. Mr. Martin was the successful bidder, and he purchased the property for $56,000. He was later informed that the property he had purchased was subject to other liens, and that foreclosure was imminent. The effect of these prior liens was that Mr. Martin paid $56,000 and received no interest in the property. Mr. Martin has requested that the IRS return his money, but the request has been challenged by the United States on the grounds that the IRS documents stated that a purchaser should not rely on the statements of the IRS personnel.

Because Mr. Martin is bringing a contract claim against the United States, the proper forum for his claim is the U.S. Claims Court, not the district court. Accordingly, Mr. Martin has filed a claim against the United States in the Claims Court, and this claim has currently been stayed. Mr. Martin has been informed by the court that in order for the Claims Court to hear his claim in equity, a congressional reference is necessary.

Mr. President, our laws permit any bill to be referred by either House of Congress to the claims court for a report on the merits of this claim. Therefore, I am introducing this private relief bill and corresponding reference so that Mr. Martin's claim may be considered. I would note that by introducing this bill and resolution, I am not asserting the validity of his claim. That issue is for the court to determine. I am merely introducing this bill and resolution so that the Claims Court will have the opportunity to hear Mr. Martin's claim in equity.

I would encourage my colleagues to support this resolution.

SENATE RESOLUTION 137—RELATIVE TO THE MENOMINEE INDIAN TRIBE

Mr. KOHL submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 137

Resolved, That S. 1335 entitled "A bill for the relief of the Menominee Indian Tribe of Wisconsin" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, providing such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the damages referred to in such bill as a legal or equitable claim against the United States or a gratuity, and the amounts, if any, legally or equitably due from the United States to the Menominee Indian Tribe of Wisconsin by reason of such damages.

AMENDMENTS SUBMITTED

NATIONAL SERVICE TRUST ACT OF 1993 DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1993

SPECTER AMENDMENT NO. 740

Mr. SPECTER proposed an amendment to the bill (S. 919) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhanced opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act.

"(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the President or the Inspector General of the Corporation may determine to be necessary, $300,000,000 for fiscal year 1994, $500,000,000 for fiscal year 1995, and $700,000,000 for fiscal year 1996, provided that the enactment of a separate authorization for fiscal year 1996 shall be required to allow the continuation of this program as contained in this Act. *Provided, however*, That except for the $700,000,000 authorization for fiscal year 1996, the remaining language of the bill shall continue in force.

MCCAIN (AND OTHERS) AMENDMENT NO. 741

Mr. MCCAIN (for himself, Mr. NICKLES, and Mr. MURKOWSKI) proposed an amendment to the bill (S. 919), supra, as follows:

Beginning on page 77, strike line 20 and all that follows through page 78, line 7 and insert the following:

"(a) AMOUNTS GENERALLY.—Expect as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of service in an approved national service position shall receive a national service education award having a value, for each of not more than two of such term of service, equal to 90 percent of—

"(1) one-half of the aggregate minimum basic educational assistance allowance calculated under sections 3013(d)(1) and 3015(b)(1) of title 38, United States Code (as in effect on July 28, 1993), for a member of the Armed Forces who is entitled to such an allowance under section 3011 of such title and whose initial obligation period of active duty in two years; less

"(2) one-half of the aggregate basic contribution required to be made by the member under section 3011(b) of such title (as in effect on July 28, 1993).

MCCONNELL (AND OTHERS) AMENDMENT NO. 742

Mr. MCCONNELL (for himself, Mr. DECONCINI, and Mr. DURENBERGER) proposed an amendment to the bill (S. 919), supra, as follows:

At the end of the bill, add the following (and conform the table of contents of the bill accordingly):

TITLE VI—LIMITATION ON LIABILITY OF VOLUNTEERS

SEC. 601. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) within certain States, the willingness of volunteers to offer their services has been increasingly deterred by a perception that they thereby put personal assets at risk in the event of liability actions against the organization they serve;

(2) as a result of this perception, many public and private not-for-profit organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, local governments, foundations, and other civic programs, have been adversely affected through the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) the efforts of not-for-profit organizations, local government, States, and the Federal Government to promote voluntarism, and community and national service, are adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities; and

(5) because Federal funds are expended on useful and cost-effective social service programs which depend heavily on volunteer participation, protection of voluntarism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal encouragement of State reform.

(b) PURPOSE.—The purposes of this title are to promote programs of community and national service, to promote the interests of social service program beneficiaries and taxpayers, and to sustain the availability of programs and not-for-profit organizations and governmental entities which depend on volunteer contributions, by encouraging reasonable reform of laws to provide protection from personal financial liability to volunteers serving with not-for-profit organizations and governmental entities for actions undertaken in good faith on behalf of such organizations.

SEC. 602. NO PREEMPTION OF STATE TORT LAW.

Nothing in this title shall be construed to preempt the laws of any State governing tort liability actions.

SEC. 603. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—To be eligible to receive full financial assistance under subtitle C of title I of the National and Community Service Act of 1990, and except as provided in subsections (b), (c), and (d), a State shall provide by law that any volunteer of a not-for-profit organization or governmental entity shall incur no personal financial liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization or entity if—

(1) such individual was acting in good faith and within the scope of such individual's official functions and duties with the organization or entity and such functions and duties are directly connected to the administration of a program described in section 122(a); and

(2) such damage or injury was not caused by willful and wanton misconduct by such individual; and

(3) the volunteer was not operating a motor vehicle and was not operating a vessel, aircraft, or other vehicle for which a pilot's license is required.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS WITH RESPECT TO ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any not-for-profit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION.—Nothing in this section shall be construed to affect the liability of any not-for-profit organization or governmental entity with respect to injury caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—A State may impose one or more of the following conditions on and exceptions to the granting of liability protection to any volunteer of an organization or entity required by subsection (a):

(1) The organization or entity must adhere to risk management procedures, including mandatory training of volunteers.

(2) The organization or entity shall be liable for the acts or omissions of its volunteers to the same extent as an employer is liable, under the laws of that State, for the acts or omissions of its employees.

(3) The protection from liability does not apply in the case of a suit brought by an appropriate officer of a State or local government to enforce a Federal, State, or local law.

(4) The protection from liability shall apply only if the organization or entity provides a financially secure source of recovery for individuals who suffer injury as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "volunteer' means an individual performing services for a not-for-profit organization or a governmental entity who does not receive compensation, or any other thing of value in lieu of compensation, for such services (other than reimbursement for expenses actually incurred or honoraria not to exceed $300 per year for government service), and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer;

(2) the term "not-for-profit organization" means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(3) the term "damage or injury" includes physical, nonphysical, economic, and noneconomic damage; and

(4) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 605. EFFECT OF STATE FAILURE TO LIMIT LIABILITY.

If on a date determined by the Corporation for National and Community Service that is not later than October 1, 1995, a State fails to have in effect (and to certify in its application under section 130 of the National Community Service Act of 1990 that the State has in effect) a limitation on liability that satisfies the requirements of this title, the allotment for such State under section 129(a) of such Act shall be reduced by 5 percent, and the Corporation shall use the amount of the reduction to make a reallotment to other States that have in effect (and so certify) such limitation.

BIDEN AMENDMENT NO. 743

Mr. BIDEN proposed an amendment to amendment No. 742 proposed by Mr. MCCONNELL to the bill (S. 919), supra, as follows:

In lieu of the matter proposed to be inserted; insert the following:

"Individuals participating in programs receiving finding under this Act shall be covered by the provisions of the Federal Tort Claims Act to the same extent as participants in other federally funded service programs."

ENHANCING THE AVAILABILITY OF CREDIT IN DISASTER AREAS

BOND (AND OTHERS) AMENDMENT NO. 744

Mr. FORD (for Mr. BOND, for himself, Ms. MOSELEY-BRAUN, and Mr. D'AMATO) proposed an amendment to the bill (S. 1273) to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon depository institutions to the extent such action is consistent with the safety and soundness of the institutions, as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disaster Credit Relief Act of 1993".

SEC. 2. DISASTER CREDIT RELIEF.

(a) REGULATORY EXCEPTION AUTHORITY.—

(1) EXCEPTION AUTHORITY.—In any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, the Board of Governors of the Federal Reserve System may make exceptions to—

(A) the requirements of the Truth in Lending Act, for credit transactions made within such area; or

(B) the requirements of the Expedited Funds Availability Act for offices of depository institutions (as defined in section 602 of that Act) located within such areas;

if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects of the exception.

(2) EXPIRATION.—Any exception granted under paragraph (1) shall expire not later than October 1, 1994.

(3) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(A) describes any exception made under this subsection; and

(B) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(b) LEVERAGE LIMIT COMPLIANCE.—

(1) EXCEPTION AUTHORITY.—The appropriate Federal banking agency may, by order, permit an insured depository institution located in any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not to exceed the qualifying amount attributable to insurance proceeds, if the agency determines that—

(A) the institution—

(i) had its principal place of business within the major disaster area on the day before the date of the President's determination;

(ii) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster (such as the flooded areas of the Mississippi, Missouri, Kansas, Illinois, and Des Moines rivers, and the tributaries of such rivers);

(iii) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the President's determination; and

(iv) has an acceptable plan for managing the increase in its total assets and total deposits; and

(B) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(B) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act:

(C) the term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act; and

(D) the term "qualifying amount attributable to insurance proceeds" means the amount by which the insured depository institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of the Presidential determination referred to in paragraph (1), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

(3) EXPIRATION.—Any exception granted under this subsection shall expire not later than April 1, 1995.

(c) BANKING AGENCY PUBLICATION REQUIREMENTS.—

(1) IN GENERAL.—A qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or any area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(A) PROCEDURE.—The agency may exercise its authority under provisions of law other than this subsection without regard to—

(i) any requirement of section 553 of title 5, United States Code; or

(ii) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(B) PUBLICATION REQUIREMENTS.—The agency may make exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(i) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(ii) any other similar publication requirement.

(2) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(A) describes any action taken under this subsection; and

(B) explains the need for the action.

(3) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "qualifying regulatory agency" means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Comptroller of the Currency;

(C) the Director of the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Financial Institutions Examination Council;

(F) the National Credit Union Administration; and

(G) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

(4) EXPIRATION.—The authority of a qualifying regulatory agency to take any action in accordance with this subsection shall expire not later than April 1, 1994.

SEC. 3. STUDY AND REPORT REQUIRED.

(a) STUDY.—The Secretary of the Treasury, after consultation with the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study to assess the impact of Federal banking laws and regulations on the provision of credit and banking services in major disaster areas, as declared by the President. The study shall—

(1) examine how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluate the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contain recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress containing the results of the study conducted under subsection (a), together with any recommendations for legislative or administrative actions that should be taken.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE FLOODS OF 1993.

It is the sense of the congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions in areas affected by such major disasters as the flooding of the Mississippi, Missouri, Kansas, Illinois, and Des Moines rivers, and the tributaries of such rivers, to meet the financial services needs of their communities.

SENIOR CITIZENS AGAINST MARKETING SCAMS ACT OF 1993

HATCH AMENDMENT NO. 745

Mr. FORD (for Mr. HATCH) proposed an amendment to the bill (S. 557) to combat telemarketing fraud, as follows:

On page 5, line 3, strike "a significant number of" and insert "twenty or more".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Friday, July 30, 1993, at 10 a.m. in open session, to consider the nomination of Victor H. Reis to be the Assistant Secretary of Energy for Defense programs.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, July 30, beginning at 10:15 a.m., to hold a business meeting to consider the following pending items:

S. 978, the National Environmental Technology Act of 1993.

H.R. 927, the National Aviary in Pittsburgh.

Nomination of Mollie H. Beattie, nominated by the President to be Director of the U.S. Fish & Wildlife Service.

Naming Bills, GSA Leases and Repair & Alterations:

S. 832. A bill to designate the plaza to be constructed on the Federal Triangle property in Washington, DC, as the "Woodrow Wilson Plaza";

H.R. 1345. A bill to designate a Federal building in San Jose, CA, the "Robert F. Peckham United States Courthouse and Federal Building";

H.R. 168. A bill to designate a Federal building in Knoxville, TN, the "Howard H. Baker, Jr. United States Courthouse";

S. 597. A bill to designate a Federal building in Richmond, VA, the "Lewis Powell United States Courthouse";

S. 656, the Indoor Air Quality Act of 1993;

S. 657, the Indoor Radon Abatement Reauthorization Act of 1993;

S. 773, the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1993; and

S. 729, the Lead Exposure Reduction Act of 1993.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Oversight of Government Management Subcommittee, Committee on Governmental Affairs, be granted authority to meet during the session of the Senate on Friday, July 30, 1993, at 9:30 a.m., to hold a hearing on "Off-loading: The Multi-Million-Dollar Loophole in Government Contracting."

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

ADDITIONAL STATEMENTS

PHELPS DODGE CORP. "SENTINELS OF SAFETY AWARD"

• Mr. DECONCINI. Mr. President, every year the Department of Labor's Mine Safety and Health Administration and the American Mining Congress recognize the safest mines in this country by awarding the Sentinels of Safety trophy to mines in each of eight categories.

The winner of the 1992 Sentinels of Safety Award in the open pit category is the Phelps Dodge Corp. Morenci Mine in Greenlee County, AZ. In September, the more than 2,200 mine employee will proudly receive this award for their dedication to safety.

Mr. President, for the mining industry and its employees, receiving this prestigious award is always an honor, but this year the Morenci Mine has brought a new dimension to that honor. To qualify for the award, mines operate a minimum of 30,000 employee hours with no lost-time injuries. Last year at Morenci, employees worked nearly 2 million hours without a single lost-time injury. By logging 10 times more hours without injury than required to be eligible for the award, the employees at the Morenci Mine have established a new safety performance record and made 1992 the safest year in U.S. mining history.

For decades Phelps Dodge Corp. has embraced safety as one of its primary tenets. As demonstrated by the Morenci employees, safety is recognized and practiced by every Phelps Dodge employee at every level. Today, I would like to recognize and congratulate Phelps Dodge and each of the Morenci Mine employees on their magnificent achievement and for the example they set for the entire mining industry.•

TRIBUTE TO HARVEY SLENTZ, LOUISVILLE POSTMASTER

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a special citizen from the Commonwealth of Kentucky, Mr. Harvey Slentz. Mr. Slentz' tremendous accomplishments, as well as his exemplary service to the Louisville community, make him deserving of special recognition.

Mr. Slentz is the postmaster for the U.S. Postal Service's Louisville division. He is responsible for retail and delivery operations in 24 postal facilities in the Louisville area. Mr. Slentz oversees a staff of more than 1,000 postal employees, including some 800 letter carriers who deliver mail on 600 routes in the Louisville area.

Despite this awesome responsibility, Mr. Slentz still finds the time to do the little things that separate him from other postmasters. It is not uncommon for him to go out and personally investigate customer complaints. If a Louisville business is trying to land a big account that is dependent on the mail system, he will meet the company's prospective client. It is these traits, Mr. President, that have endeared Mr. Slentz to his employees and colleagues, and that have led to the Louisville postal service being consistently ranked as one of the top in the Nation.

In addition to his demanding work schedule, sometimes working 80-hours weeks, Mr. Slentz still finds time to donate to the Louisville community. He has served on the boards of Metro United Way, Junior Achievement of Kentuckiana, and other community organizations in Louisville and Southern Indiana.

I ask my colleagues to join me in honoring this remarkable citizen of the Commonwealth. In addition, Mr. President, I ask that an article from the January 11, 1993, edition of Business First be inserted at this point.

The article follows:

It is the week following the 1992 Christmas rush and Louisville Postmaster Harvey A. Slentz is trying to catch up on a mountain of paperwork.

But even with a backlog of administrative details staring him in the face, Slentz, 44, takes time for a phone call from an upset Louisville resident.

Instead of brushing the woman off, as some busy executives might do; or shuffling the caller off to a subordinate, Slentz politely listens to the woman's story.

An observer in Slentz's office can—without straining—hear the caller's rather penetrating voice.

"It's no trouble. Not at all," Slentz says, while taking notes on the caller's problem. "I love for you to have my phone number."

It seems the caller has a running feud with a neighbor that somehow involves mail delivery.

"Let me come out and take a look at that situation," Slentz says.

Is this a bit of telephone public relations that won't be followed up?

No way, say friends and co-workers.

Those who know Slentz well say they wouldn't be surprised to see the Louisville postmaster leave his Gardiner Lane office to personally check on the caller's problem.

He really means it when he tells postal customers he doesn't mind helping to satisfy their mail-delivery needs, Slentz's friends and co-workers say.

"He's a genuine person," says Patricia Harrison, a Jeffersonville real estate agent who with Slentz founded the Floyd County Lions Club two years ago.

"He's a believable person," says Harrison, co-owner of the Century 21-Reisert Baker Harrison agency. "His job is stress with a capital S, but he can handle it because he likes people."

When it comes to taking care of customers, be it the biggest commercial mailer in town or an individual resident, Slentz believes in providing personal attention.

"I try to be accessible to employees and customers," he says.

Just as Slentz will personally look into an individual customer's problem, it is his policy to work directly with big companies that have high volumes of mail.

If a Louisville business is trying to land a big account that is dependent on the mail system, Slentz will meet the company's prospective client.

"We want to be a partner in your business," Slentz says.

Given the competition from private-delivery services such as United Parcel Service Inc. and Federal Express Inc., the Postal Service has to do something extra, Slentz says.

As a postmaster for the U.S. Postal Service's Louisville Division, Slentz is responsible for retail and delivery operations in 24 postal facilities in the Louisville area. He is directly responsible for the work of a staff of more than 1,000 postal employees, including some 800 letter carriers who deliver mail on 600 routes in the Louisville area.

Slentz's relationship with the letter carriers is exemplary, says Irv Lambert, president of Branch 14-National Association of Letter Carriers, the Postal Service union local.

"He's not one to be a dictator," says Lambert. "He's ready to share the responsibility and he's not one to worry about who gets the credit."

As the primary Postal Service facility for Kentucky, the Louisville Division handles from 4.5 million to 7 million pieces of mail every day, Slentz notes.

Being in charge of such a huge operation could be overwhelming, but Slentz credits everyone but himself for making the machine run.

"The employees here just have a tremendous work ethic," Slentz says. "It's a real high-achieving group of people."

Slentz was named Louisville postmaster Dec. 12, the most recent in a long string of promotions. He previously served in several management positions in Louisville during his first tour here from 1974 to 1987. The Memphis, Tenn., native returned to Louisville in 1990 following a stint with the Postal Service in Washington, D.C.

Slentz may pass around the plaudits, but he deserves a good share of the credit for the Louisville Division's achievements, says Mickey Wilhelm, a professor and chairman of Industrial Engineering at the University of Louisville.

"He was very active in the introduction of automation," says Wilhelm, who met Slentz in the 1970s when both were active in the local chapter of the Institute of Industrial Engineers.

"He so impressed the faculty here that we invited him to teach on an adjunct basis an engineering-management course," Wilhelm says.

Slentz's energy and analytical ability enable him to attack problems from a number of angles, Wilhelm said.

"He's one of the more impressive people I know in terms of seeing a problem and generating a very large number of solutions," Wilhelm says.

Because of his communication skills, sense of humor and the wealth of real-world experiences that he brought to the classroom, Slentz was very popular with his students. Wilhelm says.

Since Slentz returned to Louisville three years ago, he and Wilhelm have talked about potential projects that the post office and the university could work on together, but nothing has yet materialized.

Slentz's career as a Postal Service manager began on July 8, 1971, shortly after he was graduated from Missouri State University with a master's degree in business administration.

"The Postal Service was recruiting for management-training positions at the time and it sounded good," Slentz says.

As an undergraduate student at Arkansas State University, where he received a bachelor's degree in operations management, Slentz was undecided on a career.

"Like a lot of college students I was at one time a pre-med, pre-law and an engineering major," Slentz says. "If everyone became what they studied as an undergraduate, we'd be a nation of nothing but doctors, lawyers and engineers."

He finally settled on pursuing a master's in business administration.

As a child of the 1960s, Slentz says that like many of his peers he wanted to do something that was good for the country.

The Postal Service's vital role in the nation's communication network seemed to fit the bill, he says.

Lifting a sheet of yellow note paper from his desk, Slentz says he still finds it "a little bit amazing that I can mail this to Nome, Alaska, and know that THIS piece of paper will get there. What else can you do like that for 29 cents?"

By joining the Postal Service, Slentz continued something of a family tradition. His father, who retired in 1981 after 38 years with the Postal Service, started as a letter carrier in Memphis and also served as postmaster and in upper management jobs in Tennessee, Missouri and other states.

In his 21-year career with the Postal Service, Slentz has served in a variety of management positions.

His attention to detail, commitment to quality and teamwork have earned him a steady stream of promotions, say friends and co-workers.

"He's very hard-working," says Slentz's longtime friend Russ Bentley, an engineering manager at the Naval Ordnance Station. "He always spent a lot of time on the job, and when he'd talk about his work, you knew he cared about his subordinates because he called them all by their first name."

With most of his promotions, Slentz found himself being transferred.

Saying good-bye to one city and hello to another used to be exciting, he says.

But as his family grew, moving from city to city got harder, says Slentz, whose work assignments have taken him from Kansas City, Mo., to St. Louis, to Chicago, to Louisville to Virginia Beach, Va., to the suburbs of Washington, D.C., and back to Louisville.

During his first stint in Louisville from 1974 to 1987, Slentz served as logistics manager, area manager of stations and branches, and manager of the division's engineering and technical unit.

In 1987, Slentz left Louisville when he was named postmaster of Virginia Beach, the largest city in Virginia. It was there that he met his second wife, the former Patricia Linsinbigler.

Slentz jumped at the opportunity to return to Louisville in 1990 when a position as field director of operations support opened. He was named acting postmaster in September 1992, then three months later was appointed postmaster.

Slentz was named postmaster in a reorganization of Louisville Division's management. Previously, Jim Syers was both postmaster and district manager for all of Kentucky and Southern Indiana.

Last year the job of postmaster and district manager were separated. Slentz reports to the district manager.

"Louisville is an extremely forward-thinking and progressive Postal Division," Slentz says. "A lot of the automation that is used across the country in the Postal Service has its origins here. Anyone in the Postal Service would want to have Louisville on their resume."

Slentz describes the Louisville Division's Gardiner Lane facility as the most automated post office in the world.

"We've had officials from the former Soviet Union and China come here to see the facility," Slentz said. "It's kind of neat that all of this is going on in Louisville."

Some of the Louisville Division's latest computerized sorting equipment is capable of handling mail at blinding speed, Slentz says, pointing to a machine that reads ZIP codes and sorts mail at a rate of nine letters per second.

Although born in Memphis, Slentz considers metropolitan Louisville home.

"I guess I've lived here longer than any one other place," he says. "My children were born here and I guess the place where your children are born becomes home."

Slentz has two children from his first marriage: Andy, a college student in Florida; and Abigail, a high school senior.

Slentz lives in Southern Indiana, but is looking for a house in Louisville.

"I figure being Louisville Postmaster I ought to live in the city," Slentz says.

Being part of the community is important to Slentz. He has been active in community affairs since he first came to Louisville in 1974. He has served on the boards of Metro United Way, Junior Achievement of Kentuckiana and other community organizations in Louisville and Southern Indiana.

About 10 years ago his penchant for volunteer work earned him a broken leg.

"I was coaching my son's soccer team and during practice I foolishly told the kids to try and take the ball away from me," Slentz recalls. "Not only did they take the ball away, they knocked me down and broke my leg."

Most of Slentz's civic work isn't quite that rough, however.

"I enjoy being part of the community," he says.

He even enjoys being buttonholed at civic-group meetings by members who can't resist telling him their mail problems.

"It happens all the time," Slentz says with a laugh. "I value that, though. I like to hear about anybody's relationship with the Postal Service."

An insatiable reader, Slentz currently has three books on his night stand. Sharing space are: James Michener's historical novel "Mexico," the conservative tone "The Way Things Ought To Be" by radio and television talkshow host Rush Limbaugh, and a Stephen King thriller.

"I read about one or one and a half books a week," Slentz says. "There's not any single type of book that reaches out to me. I'll read just about anything."

When he's not running the Louisville post office, Slentz likes to play golf or—as he puts it—play at it.

"I was playing in a charity tournament with my boss and he said I'm the only golfer he knows who ought to wear a snorkel and a mask. Most of the balls I hit spend a lot of time in the water traps," Slentz says.

Being a Postal Service manager demands its share of 80-hour work weeks, especially during the hectic weeks surrounding the Christmas holiday.

Despite this kind of time demand, Slentz found time during his first tour in Louisville to study law at the University of Louisville. He received a law degree from U of L in 1981 and is licensed to practice in Kentucky and Indiana.

Slentz didn't enroll in U of L's evening law classes because he was thinking of starting a new career. It was simply a way to pursue his love of learning.

"I've always enjoyed education," Slentz says. "I could have stayed home and watched (the television show) 'Laverne and Shirley' or I could have done something."

Studying at a "nationally respected law school" was an opportunity he couldn't pass up, Slentz says.

At times in the past 21 years, however, Slentz has wondered if he's in the right profession.

"I've come home late on Christmas Eve and seen a naked tree and asked myself, 'What am I doing?'" he says.

But Slentz foresees no approaching midlife crisis that will propel him into a new career.

"I guess all of us have wondered at times if we have made the right decisions," Slentz says. "But I've always enjoyed the Postal Service. It offers a lot of opportunities."•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. BRYAN. Mr. President, it is required by paragraph 4 of Rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Mike Tongour, a member of the staff of Senator SIMPSON, to participate in a program, in China, sponsored by the Chinese People's Institute of Foreign affairs, from August 7–22, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Tongour in this program.

The select committee received notification under rule 35 for Senator SHELBY and Tom Young and Victoria Lee, members of the staff of Senator SHELBY, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 7–25, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Senator SHELBY, Mr. Young and Ms. Lee in this program.

The select committee received notification under rule 35 for David Cox, a member of the staff of Senator BOREN, to participate in a program in Indonesia, sponsored by the Republic of Indonesia, from August 20–September 5, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Cox in this program.

The select committee received notification under rule 35 for Erin Ennis, a

member of the staff of Senator BREAUX, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 10–25, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Ennis in this program.

The select committee received notification under rule 35 for Patrick Mulloy, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 7–22, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Mulloy in this program.

The select committee received notification under rule 35 for Laura Hudson, a member of the staff of Senator JOHNSTON, to participate in a program in Indonesia, sponsored by the Republic of Indonesia, from August 20–September 5, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Hudson in this program.

The select committee received notification under rule 35 for Robert Mangas, a member of the staff of Senator FORD, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from August 10–25, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Mangas in this program.

The select committee received notification under rule 35 for Anthony H. Cordesman, a member of the staff of Senator MCCAIN, to participate in a program in Indonesia, sponsored by the Embassy of the Republic of Indonesia, from August 20–September 5, 1993.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Cordesman in this program.●

TRIBUTE TO MARILYN A. MCLAUGHLIN

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a special citizen from the Commonwealth of Kentucky, Marilyn McLaughlin. She is a remarkable individual whose devotion to others and tireless efforts on behalf of the underprivileged deserve special recognition.

Mrs. McLaughlin is the executive director of Dare to Care, Inc., an ecumenical nonprofit corporation that distributes food to needy families. Last year, the corporation distributed more than six million pounds of food and served more than 95,000 individuals from 28,000 families. Those are mind-boggling statistics that represent real help for the average citizen. A lot of the credit for that prodigious effort goes to Mrs. McLaughlin.

Mrs. McLaughlin has been a native of Louisville since 1965 when she moved there from New York City with her husband of 40 years, Albert. After her five children were grown, she decided to embark on a professional career. She enrolled at the University of Louisville, and graduated summa cum laude in 1982. Mrs. McLaughlin had always been active in volunteer activities throughout her adult life, so it was only natural she take a job at a food bank, Dare to Care. Six months later she was named director and she has been there ever since.

Mrs. McLaughlin is an unflinching advocate for the disadvantaged. Not deterred by dwindling corporate donations of food to her organization, she finds other ways to meet Dare to Care's goals. She asks farmers to plant a little extra or is even considering having Dare to Care launch its own canning operations. She is convinced that people will always be willing to extend a helping hand.

In addition to her endless efforts on behalf of Dare to Care, Mrs. McLaughlin amazingly finds the time to donate her time to other worthwhile causes. She was recently elected to a 2-year term on Second Harvest's national board of directors and was chairman of the Central Region Food Bank Association from 1990–91. A charter member of the Louisville-Jefferson County Coalition for the Homeless, Mrs. McLaughlin chaired its grants committee from 1988–91. She is currently serving as chair of the Development Committee at U. of L. and is an adjunct professor of political science at Indiana University Southeast.

I ask my colleagues to join me in honoring this remarkable citizen of the Commonwealth. In addition, Mr. President, I ask that an article from the July 5, 1993, edition of Business First be inserted at this point.

The article follows:

The power of one can make a difference. The proof is in the work of Marilyn A. McLaughlin, executive director of Dare to Care Inc., an ecumenical non-profit corporation that distributes food to families.

As Dare to Care's leader for the past 10 years, McLaughlin has made a difference in the lives of thousands of people in Louisville, across Kentucky and the nation.

A 57-year-old grandmother, teacher and business-woman, McLaughlin gets up every morning with one overriding thought in mind—to help others.

"I like trying to make things a little better," McLaughlin says in typically humble fashion.

Dare to Care, which was incorporated in 1971, has numbers that are far from little.

Last year the corporation distributed more than 6 million pounds of food and served more than 95,000 individuals and 28,000 families.

Dare to Care uses donations of food, money and volunteer services from individuals, government and corporations to provide food to people who otherwise would go hungry.

Food and personal-care items, are distributed through 27 distribution centers located throughout the metropolitan area. Persons seeking emergency food need proof of residence and a social security card for each person who needs assistance.

The agency provides a three- to seven-day supply of food.

Individuals can receive emergency food from Dare to Care up to four times a year.

Running the Dare to Care operation is a job that fits McLaughlin like a glove, says Archbishop Thomas Kelly of the Louisville Catholic Archdiocese.

"She's a very dedicated, sensitive person," Kelly says.

The Dare to Care board of directors couldn't have found a person more suited to the job when McLaughlin was hired 10 years ago, Kelly says.

"She's indefatigable," Kelly says.

Which is a good thing given the nature of her work.

McLaughlin refuses to let herself be overwhelmed by the magnitude of the hunger problem or the administrative chores associated with running one of the busiest food banks in the country.

"In this kind of service, if you start to think about the big picture, the fact that there are more and more children who are going hungry, you have periods when you think you can't solve everything," she says. "But I'm not one to sit in a corner crying."

Far from it, say some Louisville corporate leaders and a fellow food-bank executive.

"She's a can-do person. If she sees a problem she finds a way to take care of it."

Mike Mulqueen, executive director of the Greater Chicago Food Depository, says McLaughlin possesses the right mix of compassion and business savvy.

"She's not a pushover. She can be tough as she has to be," Mulqueen says.

A retired Marine Corps brigadier general, Mulqueen first met McLaughlin last year in Miami when they spent eight days coordinating food distribution to victims of Hurricane Andrew.

Both Dare to Care of Louisville and the Greater Chicago Food Depository are members of Second Harvest Food Bank, a national network for emergency food distributors.

It was impressive watching McLaughlin run the Second Harvest operation in south Florida, Mulqueen says. Working long hours, she dealt daily with military officials and agencies such as the American Red Cross and the salvation Army to make sure that food found its way to the people who needed it, Mulqueen says.

Her organizational ability is equal to the skills of many of the officers that he knew during his 31-year military career, Mulqueen says.

"Marilyn would do well in the Marine Corps," he says.

A native of New York City, McLaughlin has lived in Louisville since 1965, when she and her husband, Albert, moved from Philadelphia when he took a job with General Electric Corp.

Married for 40 years, McLaughlin devoted the first part of her adult life to raising a family.

Only after her five children—four girls and one boy—were grown and out on their own did McLaughlin start thinking about a professional career.

With an eye toward finding a job that would allow her to help people, McLaughlin enrolled in the University of Louisville. She graduated summa cum laude in 1982 with a

bachelor's degree in urban studies and geology.

Throughout her pre-college life she had performed volunteer social work. Perhaps, McLaughlin thought, she could find something equally rewarding where she could put her education and enthusiasm for "making things better" to work.

"One of my professors heard about a food bank that was getting started and suggested I apply for a job," McLaughlin says.

McLaughlin checked it out and learned that Dare to Care was planning to join the national Second Harvest Food Bank program. The opportunity to be part of a new foodbank program seemed like the perfect opportunity, McLaughlin says.

"I took the job running," she says.

Six months later she was asked to be Dare to Care's director, McLaughlin says. In many ways, McLaughlin says she learned the job on the go.

"I had to learn a lot of things very quickly, she says. "Financial projections, estimating costs. All of that was very new to me," she says.

She credits an experienced staff and an understanding board of directors with helping her learn the ropes of running a business.

Dare to Care has a staff of 13 full-time and four part-time workers.

With McLaughlin at the helm, Dare to Care has seen the strongest growth in its history.

In 1982, the year before McLaughlin was named director, Dare to Care provided emergency food to 35,000 individuals. Ten years later the agency fed more than 95,000.

In the first year of participation in the Second Harvest program, Dare to Care shipped about 250,000 pounds of food. Last year it shipped more than 6 million pounds, including about 1 million pounds of surplus food donated by the U.S. military at the end of Desert Storm.

As the Second Harvest member in Louisville, Dare to Care serves as a conduit for receiving food from private sources and the federal government for distribution throughout Kentucky.

McLaughlin had been on the job with Dare to Care less than a year when she found herself trying to find a new home for the nonprofit agency.

For several years, Dare to Care had operated out of a 5,000-square-foot warehouse on Grade Lane. When United Parcel Service Inc. began building its Louisville air operations in 1984, Dare to Care was forced to find a new headquarters.

The UPS situation actually was a blessing in disguise. Dare to Care desperately needed more space, McLaughlin said.

Although she knew virtually nothing about real estate and construction, McLaughlin set about finding the right place. She also spearheaded Dare to Care's fund-raising effort, which brought in about $800,000 to pay for construction of a new building.

Today, Dare to Care operates out of a 33,000-square-foot warehouse located on a 4-acre site on Fern Valley Road east of Old Shepherdsville Road.

"When building this place I had to make decisions about things I knew absolutely nothing about—paving, plumbing, electrical—but the contractors really were wonderful," she says.

One part of the executive director's job that McLaughlin has never had trouble with is walking into a corporate board room and asking for donations.

"I love to go asking. I really do," she says. "I'm not shy about asking for something for Dare to Care."

Kroger's Hackett says the combination of McLaughlin's upbeat personality and professionalism make business executives want to help out.

"She's very outgoing," says Hackett, a member of the Dare to Care board of directors. "She's always looking for a silver lining."

Kroger is one of Dare to Care's biggest corporate supporters. The grocery company annually donates thousands of pounds of bread, canned goods and other foods to the agency.

In addition to financial donations, food producers, grocery companies and other businesses typically donate such things as dented canned goods or foods taken off the store shelf when they aren't sold by the expiration date.

Rounding up corporate food donations gets harder every year, however, McLaughlin says.

The volume of this so-called surplus food is dwindling as more and more companies implement "zero defect" and "just-in-time" delivery policies to cut their operating costs, McLaughlin says.

That simply means Dare to Care must become more innovative, McLaughlin says.

"We need to be more creative and that's what we're trying to do," she says.

Nontraditional ideas such as asking farmers to plant a little extra or even having Dare to Care launch its own canning operations are some of the ideas bouncing around McLaughlin's creative mind.

McLaughlin estimates that at least 75 percent of her time is spent talking with business executives, civic organizations, church groups and anyone else who will listen to her talk about the needs of the hungry.

"It's estimated that 60 to 70 percent of the people in this country are three paychecks from being homeless," McLaughlin says. "If you can talk to people you can make them see that, 'Hey, that could be me' and they will respond."

Regardless of what the future brings, McLaughlin isn't worried about the food supply drying up.

"On a community level the Louisville community will always respond to the need for food," McLaughlin says. "This is probably the best place to work in this kind of service. I talk to others in this business and the level of support that we get is considered outstanding."

McLaughlin doesn't buy the notion that people are looking out for themselves first these days.

"People aren't caring less." says McLaughlin, "People care. Maybe there's just not so much public display."

One might think that running Dare to Care would be enough public service for the average person.

Not McLaughlin. Her capacity for caring and willingness to work for others less fortunate is boundless, says Archbishop Kelly.

"She loves the poor," Kelly says.

McLaughlin has given her time to a number of charities and community organizations both locally and nationally.

She is currently serving as chair of the Development Committee at U of L and is an adjunct professor of political science at Indiana University Southeast.

She is a member of the Archdiocese of Louisville Peace and Justice Commission and the Kentuckiana Interfaith Council.

She also recently was elected to a two-year term on Second Harvest's national board of directors and was chairman of the Central Region Food Bank Association from 1990–1991.

A charter member of the Louisville-Jefferson County Coalition for the Homeless. McLaughlin chaired its grants committee from 1988–1991.

Her work has brought her numerous awards, including being named a finalist for Pillsbury Co.'s Best Against Hunger award and the city of Louisville Citizen Award. U of L presented an Outstanding Alumni Award in 1989 and Southern Living magazine featured her in a report on "Southerners Who Make A Difference in Southern Living."

McLaughlin credits her Catholic upbringing and education with instilling in her a deep concern for others.

But she doesn't see herself as any different from other people who work in public service or volunteer their time to help public agencies.

"I've just been given a terrific opportunity to work in this community," she says. "I do care a great deal, but I just feel I've been blessed that I can be helping. I'm a very lucky person."

When McLaughlin isn't making others feel good she likes to travel. As often as she and her husband can, they take weekend trips.

The McLaughlins particularly enjoy canoeing and white-water rafting.

"We really started getting into it about 15 years ago. It's not as set a commitment as owning a boat," McLaughlin says with a smile. "You just get in the car and go when you feel like it. If you have a boat you're going to feel like you've got to be out there every weekend to justify spending the money."

Marilyn and Albert McLaughlin have spent many an hour rafting on some of the more well-known white-water rivers in this part of the country.

They sampled the excitement of the Ocoee and Hiawasee rivers in eastern Tennessee and the Gauley River in West Virginia.

They've also ventured west, testing their skills on the Salmon River in Idaho. This summer they spent two weeks rafting rivers in the Rocky Mountains.

"We've been to Colorado before," she says. "Once we were the only ones on a river and we couldn't figure out why until we wiped out totally."

McLaughlin may have wiped out once while rafting, but she's been nothing but successful in her work with Dare to Care, say those who know her.

"She loves what she does and it shows," says Kroger executive Hackett.

"Marilyn knows how to do the things necessary to not only survive, but thrive in a non-profit environment," says Mulqueen, her Chicago counterpart.

"Anyone who donates to her food bank, I can assure them that their money is going to be well-spent," Mulqueen says.•

TRIBUTE TO WEST VIRGINIA MODEL PROGRAMS FOR MATH AND SCIENCE

• Mr. ROCKEFELLER. Mr. President, I rise today to commend my State of West Virginia's inservice teacher training programs which have served as successful models under the Dwight D. Eisenhower Mathematics and Science Education Program.

Our Nation continues today toward an ideal of placing our country's students first in the world in science and mathematics. West Virginia has made a commitment to advancement in the

areas of mathematics and science and has developed and implemented three models which we proudly recognize.

The Math Their Way Program, developed in Hampshire County, is a supplemental mathematics program for kindergarten through second grade The focus is on using materials and activity-centered learning to encourage thinking, understanding, and creativity as well as the mastery of basic skills. Concepts covered in the workshop are free exploration, numbers, measurements, patterning, sorting and classifying, comparing, counting, graphing, and problem solving. Upon completion of the program, teachers receive materials and are encouraged to start a Math Their Way Program within their own school.

In the area of Earth science, the Rock Formations of the Northern Eastern United States Program was headed by Robert Behling of West Virginia University. This model entailed a 5-day, 4-night traveling graduate class which continues a 5-year program to update the Earth science teachers of Marion County. Major activities of the program include tours of various mineral mines throughout Pennsylvania, Vermont, and New York. The program focuses developing activities and lessons to be applied in the classroom.

The third of our State's models is the Path to Mathematics and Science Program, a product of Fairmont State University. The goal of this model is to increase middle school teachers' knowledge of mathematics and chemistry or physics and assist teachers in the integration of a hands-on approach to raise student interest in, and understanding of, these subjects. This is accomplished through a 1-week inservice training course, followed by 1 week of teaching this knowledge to 60 minority and/or disadvantaged students. Highlighting this program are the daily mathematics and science labs in which teachers and students work together on applying their newly acquired skills. These activities emphasize group interaction skills and promote student interest and understanding of these subjects.

These programs inspire teachers and greatly help students. It is also helping to foster important partnerships between institutions of higher learning and elementary and secondary schools. Such cooperation and partnership strengthen both groups.

As West Virginia and our country strive to set new standards of excellence in education and work to reach our national goals, including leading the world in math and science education, we must invest in teacher training and education. Federal support for these programs is crucial to spur innovative programs and initiatives in my State and across the country.

The West Virginia educators deserve our praise and support for these programs, and it will help children in classrooms for years to come. Education is a fundamental investment for our future.●

NOMINATION HELD AT THE DESK

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the nomination of Jeffrey E. Garten, to be Under Secretary of Commerce for International Trade, received by the Senate today, be held at the desk until close of business Monday, August 2.

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

ENHANCING THE AVAILABILITY OF CREDIT IN DISASTER AREAS

Mr. FORD. Mr. President, on behalf of the two leaders, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 1273, regarding credit in disasters, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1273) to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon depository institutions to the extent such action is consistent with the safety and soundness of the institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, I rise today to ask the Senate to pass by unanimous consent S. 1273, the Disaster Credit Relief Act of 1993, as amended. Almost every major river and tributary in the Midwest is flooding. This is a regional disaster of monumental proportions. It is not a 100-year flood, it is a 500-year flood. Places that have never flooded before are flooding now and even in high areas, saturated ground is causing houses to slide from their foundations. Thousands of families have fled, many square miles of farmland are under water, and the rivers continue to rise. This continued rainfall just prolongs the drop in the water level.

The Midwest is suffering greatly as a result of the flood. In touring Missouri, I was overwhelmed by the devastation. Thousands of homes have been damaged, towns have been destroyed, and large sections of farmland have been rendered useless. At this date, it is very difficult to estimate the damage to Missouri, let alone all of the other States also affected by the flood. However, it is clear that it will be enormously expensive to rebuild and recover from this event.

Last year, when hurricanes wrought havoc on Florida, Hawaii, and Louisiana, one of the elements of disaster relief enacted by Congress was to provide flexibility to bank regulators to help address the credit needs caused by the crisis situation. Utilizing these powers, the Federal banking regulators were able to waive certain regulations that inhibited credit availability in the disaster area.

Last week, I introduced legislation to provide the financial regulators with similar authority. This legislation was referred to the Senate Committee on Banking, Housing, and Urban Affairs. Since that time, I have worked closely with Chairman RIEGLE and Senators D'AMATO and MOSELEY-BRAUN, to fashion a bipartisan amendment that will provide the needed assistance. I want to thank all of them for their support and assistance, and I particularly want to thank Senator D'AMATO for his efforts in this regard. His help in facilitating the process will enable us to pass this legislation in a very short period of time, thereby getting the needed funds to the flood victims sooner instead of later.

Today, along with my original cosponsors, Ms. MOSELEY-BRAUN and Mr. D'AMATO, I am asking the Senate to pass this bill as amended and to send it to the other body for its timely consideration. I hope this legislation will be passed and sent to the President in a matter of days. We need to provide assistance now, while the flood is ongoing.

S. 1273, as amended, will help provide credit to individuals and small businesses damaged by the flooding in the Midwest by giving the Federal bank regulatory agencies the discretion to waive regulations that might inhibit lending in disaster areas.

For example, the Federal banking agencies might temporarily waive regulations to make it easier to extend existing credit lines, to simplify how loans are written up, to speed access to funds, and to cut down on loan documentation and paperwork.

The bill would allow waivers to be made in areas which have been declared disaster areas by the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or in areas determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries.

People all across the Midwest are pulling together to fight for their homes, lands, and communities. We are thankful for the outpouring of help from our neighbors and the quick action by Federal officials, but, unfortunately, the $2.98 billion that the President originally sought will fall far short. In fact, I would not be surprised if Missouri's losses alone came to that amount. We need to provide assistance now while the flooding is ongoing; we

need to help people get credit or have credit extended. We also must be prepared to provide quick and useful assistance when it is time to rebuild. I believe S. 1273 is one way to help the people of Missouri and other States in the Midwest get access to the money they need to get back on their feet.

Mr. President, I would also ask for unanimous consent to have printed in the RECORD a copy of a letter from Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve, and a copy of a letter from Andrew C. Hove, Jr., Chairman of the Federal Deposit Insurance Corporation, concerning the need for this legislation.

I thank my colleagues for their support of this measure and I ask that the full text of my statement be printed in the RECORD, along with the full text of the bill as amended.

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

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, July 29, 1993.

Hon. CHRISTOPHER (KIT) BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing to respond to your request for comment on whether any changes are needed in the Depository Institutions Disaster Relief Act of 1992 (DIDRA) to respond to operational and credit needs in the areas in the Midwest that have been affected by the recent flooding.

Under the existing provisions of DIDRA, the Federal Reserve and the other federal financial institutions regulatory agencies have taken several steps to provide regulatory relief, including waiver of the appraisal requirements of Title XI of FIRREA and the agencies' appraisal regulations and relief from certain leverage capital standards. Using its regulatory authority, the Board has also provided temporary relief from certain provisions of Regulation Z (Truth in Lending). In addition to these initiatives, the Federal Reserve has also authorized the Reserve Banks in the affected areas to grant filing extensions to those organizations that are unable to meet regulatory reporting deadlines due to flood-related problems. Furthermore, consistent with long-standing practice, the Federal Reserve has reminded our examiners that they should give due consideration to the unusual circumstances that institutions face in flood-affected areas in determining any supervisory action. These initiatives to provide relief in the Midwest are similar to those taken in 1992 in response to Hurricanes Andrew and Iniki and the Los Angeles civil unrest.

The Federal Reserve believes that DIDRA as originally enacted gives the agencies sufficient authority to provide regulatory relief while also enabling them to take appropriate actions to maintain the safety and soundness of federally insured institutions. In that light, even though affected institutions are exempt from the appraisal requirements, the agencies still require institutions to document the collateral's value. Further, after waiving the appraisal requirement in disaster areas, the agencies have the discretion to revoke or modify the waiver, with proper notice, if circumstances so warrant. Under the provisions for relief from the leverage capital standards, there are also adequate safeguards to prevent possible abuse. First, an eligible institution must request relief from the appropriate Reserve Bank which will review each request on a case-by-case basis and consult with Board staff on the decision to grant relief. Second, the institution must have been adequately capitalized prior to the disaster and present an acceptable plan for managing the resulting increase in assets and deposits.

Several provisions of DIDRA have expired or are about to expire. These provisions include: section 3 (Truth in Lending Act; Expedited Funds Availability Act) which expired in April 1993 and gave the Board the authority to provide temporary relief from provisions of the Truth in Lending Act and the Expedited Funds Availability Act; section 4 (Deposit of Insurance Proceeds) which expires on April 23, 1994 and allows an institution to apply for relief from the leverage capital standards under certain situations; and section 5 (Banking Agency Publication Requirements) which expired in April 1993 and allowed the agencies to waive certain procedural requirements in acting on applications or regulatory initiatives where immediate action is needed to facilitate recovery from the disaster.

While the Board was able to use its existing authority to provide relief from the Regulation Z (Truth in Lending) requirements similar to that provided by DIDRA, the Board believes that Congress may wish to extend the availability of sections 3, 4 and 5 of DIDRA in order to permit the agencies to respond quickly and uniformly in future major disaster areas. Congress may also wish to give consideration to extending the coverage of section 3 to give the Board the ability to grant temporary relief in major disaster areas from provisions of the Electronic Fund Transfer Act and the Truth in Savings Act.

Please be assured that the Federal Reserve will continue to monitor the situation in the Midwest and respond to the needs of affected institutions and borrowers.

Sincerely,

ALAN GREENSPAN,
Chairman.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, July 29, 1993.

Hon. ALFONSE M. D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: Thank you for your recent request for comments on recommended changes to the Depository Institution Disaster Relief Act of 1992 (DIDRA), P.L. 102-485, that may be needed to respond to this year's flooding.

The Federal Deposit Insurance Corporation is sensitive to the special needs which accompany natural disasters such as floods, earthquakes and major storms and we support the intent of DIDRA to facilitate recovery from such disasters. In order to lessen unnecessary regulatory interference with local economic recovery, we have acted already on those regulations that we can temporarily modify. A News Release listing temporarily modified supervisory practices is enclosed for your information.

Certain laws and regulations that are beneficial and protect public policy interests in normal times can slow an insured institution's response in providing financial services during disasters. As we learned in 1992, granting temporary regulatory relief from these laws does not affect the safety and soundness of insured institutions. Insured institutions continue to be subject to active supervision and bank management is always expected to act in a prudent manner. It is unlikely that regulated institutions would purposefully harm themselves or their customers, or cause a loss to the insurance fund solely due to temporary waiver of a law or regulation. If any institution became involved in unacceptable activities, the federal financial institutions regulatory agencies have substantial enforcement powers to force correction.

Congress may want to consider reinstating DIDRA's expired provisions. Several sections of DIDRA have sunset dates. Two Sections expired in April 1993: Section 3 (Truth in Lending Act; Expedited Funds Availability Act) and Section 5 (Banking Publication Requirements). To allow banks regulatory relief for future disasters, Congress might consider the benefits of extending these provisions permanently as well as the April 1994 expiration date of Section 4 (Deposit of Insurance Proceeds). These provisions would provide regulatory relief during disasters and facilitate recovery after the disaster.

We appreciate the opportunity to comment on this important issue and stand ready to help in any way we can.

Sincerely,

ANDREW C. HOVE, Jr.,
Acting Chairman.

AMENDMENT NO. 744

(Purpose: To provide the Federal banking agencies with increased regulatory flexibility for financial institutions located in major disaster areas, as declared by the President)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senator BOND and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BOND, for himself, Ms. MOSELEY-BRAUN, and Mr. D'AMATO, proposes an amendment numbered 744.

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

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

The amendment is as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disaster Credit Relief Act of 1993".

SEC. 2. DISASTER CREDIT RELIEF.

(a) REGULATORY EXCEPTION AUTHORITY.—

(1) EXCEPTION AUTHORITY.—In any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, the Board of Governors of the Federal Reserve System may make exceptions to—

(A) the requirements of the Truth in Lending Act, for credit transactions made within such area; or

(B) the requirements of the Expedited Funds Availability Act for offices of depository institutions (as defined in section 602 of that Act) located within such area;

if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects of the exception.

(2) EXPIRATION.—Any exception granted under paragraph (1) shall expire not later than October 1, 1994.

(3) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(A) describes any exception made under this subsection; and

(B) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(b) LEVERAGE LIMIT COMPLIANCE.—

(1) EXCEPTION AUTHORITY.—The appropriate Federal banking agency may, by order, permit an insured depository institution located in any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not to exceed the qualifying amount attributable to insurance proceeds, if the agency determines that—

(A) the institution—

(i) had its principal place of business within the major disaster area on the day before the date of the President's determination;

(ii) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster (such as the flooded areas of the Mississippi, Missouri, Kansas, Illinois, and Des Moines rivers, and the tributaries of such rivers);

(iii) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the President's determination; and

(iv) has an acceptable plan for managing the increase in its total assets and total deposits; and

(B) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(B) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(C) the term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act; and

(D) the term "qualifying amount attributable to insurance proceeds" means the amount by which the insured depository institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of the Presidential determination referred to in paragraph (1), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

(3) EXPIRATION.—Any exception granted under this subsection shall expire not later than April 1, 1995.

(c) BANKING AGENCY PUBLICATION REQUIREMENTS.—

(1) IN GENERAL.—A qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or any area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(A) PROCEDURE.—The agency may exercise its authority under provisions of law other than this subsection without regard to—

(i) any requirement of section 553 of title 5, United States Code; or

(ii) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(B) PUBLICATION REQUIREMENTS.—The agency may make exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(i) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(ii) any other similar publication requirement.

(2) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(A) describes any action taken under this subsection; and

(B) explains the need for the action.

(3) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "qualifying regulatory agency" means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Comptroller of the Currency;

(C) the Director of the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Financial Institutions Examination Council;

(F) the National Credit Union Administration; and

(G) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

(4) EXPIRATION.—The authority of a qualifying regulatory agency to take any action in accordance with this subsection shall expire not later than April 1, 1994.

SEC. 3. STUDY AND REPORT REQUIRED.

(a) STUDY.—The Secretary of the Treasury, after consultation with the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study to assess the impact of Federal banking laws and regulations on the provision of credit and banking services in major disaster areas, as declared by the President. The study shall—

(1) examine how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluate the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contain recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress containing the results of the study conducted under subsection (a), together with any recommendations for legislative or administrative actions that should be taken.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE FLOODS OF 1993.

It is the sense of Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions in areas affected by such major disasters as the flooding of the Mississippi, Missouri, Kansas, Illinois, and Des Moines rivers, and the tributaries of such rivers, to meet the financial services needs of their communities.

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

The amendment (No. 744) 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, was read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 167, S. 1274, a bill to authorize funding for certain SBA programs; that the committee amendment be agreed to; the bill, as amended, be deemed read three times, passed, and the motion to reconsider laid upon the table; that the title amendment be considered agreed to; and that any statements and related materials regarding this measure appear in the RECORD at the appropriate place.

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

The Senate proceeded to consider the bill (S. 1274) to authorize funding for certain Small Business Administration programs, and for other purposes, which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Guaranteed Credit Enhancement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. GENERAL AUTHORIZATIONS FOR FISCAL YEARS 1993 AND 1994.

(a) FINANCINGS FOR FISCAL YEAR 1993.—Section 20(g)(2) of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking "$7,030,000,000" and inserting "$8,455,000,000";

(2) in subparagraph (A), by striking "$6,200,000,000" and inserting "$7,500,000,000"; and

(3) in subparagraph (C), by striking "$775,000,000" and inserting "$900,000,000".

(b) FINANCINGS FOR FISCAL YEAR 1994.—Section 20(i)(2) of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking "$8,083,000,000" and inserting "$9,258,000,000";

(2) in subparagraph (A), by striking "$7,200,000,000" and inserting "$8,000,000,000"; and

(3) in subparagraph C), by striking "$825,000,000" and inserting "$1,200,000,000".

(c) REDESIGNATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (k)" and inserting "paragraph (1)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992, as subsection (l);

(3) in subsection (n)—

(A) by striking "(n) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraph (1)";

(4) by redesignating subsection (o) as subsection (n); and

(5) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

SEC. 3. EXTENSION OF STATE LIMITATION ON INTEREST RATES.

Section 112(c) of the Small Business Administration Reauthorization and Amendments Act of 1988 (Public Law 100-590; 102 Stat. 2996) is amended—

(1) by striking paragraph (2); and

(2) by striking "(1) IN GENERAL.—".

SEC. 4. GUARANTEED BUSINESS LOAN PROGRAM AMENDMENTS.

(a) ADDITIONAL GUARANTEE FEES.—

(1) IN GENERAL.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended—

(A) by inserting "(A)" after "(18)"; and

(B) by adding at the end of the following new subparagraph:

"(B) In addition to fees collected under subparagraph (A), the Administration shall collect an excess premium fee from the participating lending institution in any case in which the sale price of the guaranteed portion of a loan made under this section and sold on the secondary market exceeds 110 percent of the face value of the guaranteed portion of the loan. Such fee shall be equal to 50 percent of that portion of the sale price that is in excess of 110 percent of the face value of the guaranteed portion of the loan. Such fee may not be charged to the borrower."

(2) SUNSET.—The amendments made by paragraph (1) shall remain in effect until September 30, 1996.

(b) GUARANTEE PERCENTAGES.—

(1) IN GENERAL.—Subparagraph (B) of section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is less than 10 years, except that the participation by the Administration may be reduced below 70 percent upon request of the participating lender;

"(ii) not less than 70 percent nor more than 75 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is not less than 10 years, except that the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(iii) not less than 85 percent of the financing outstanding at the time of disbursement, if such financing is a loan under paragraph (16).".

(2) ADDITIONAL AMENDMENTS.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(A) in the second sentence, by striking "guaranteed to less than 85 percent" and inserting "guaranteed to less than the specified percentages"; and

(B) in the third sentence, by striking "80 percent" and inserting "75 percent".

(c) ANNUAL GUARANTEE FEE; PENALTY.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraphs:

"(22)(A) For loans guaranteed under this subsection, the Administrator is authorized to collect, either directly or through a fiscal and transfer agent, an annual fee on each loan that is equal to ¼ of 1 percent of the declining principal balance of the loan.

"(B) The Administrator is authorized to impose and collect, either directly or through a fiscal and transfer agent, a reasonable penalty fee on late payments of the fee authorized under subparagraph (A).".

SEC. 5. INTEREST RATE FOR PREFERRED LENDERS PROGRAM.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 7(a)(2)) is amended by inserting after the third sentence the following: "The maximum interest rate for a loan under the Preferred Lenders Program shall not exceed the maximum interest rate applicable to other loan guarantee programs under section 7(a), as established by the Administrator.".

SEC. 6. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking "$15,000" and inserting "$25,000";

(2) in paragraph (4)(C)(ii), by inserting "to defray costs associated with loan fund administration and" before "to provide";

(3) in paragraph (5)(A), by striking "6 grants" and inserting "12 grants";

(4) by amending paragraph (9)(A) to read as follows:

"(A) IN GENERAL.—The Administration may provide, directly or through an organization described in subparagraph (B), technical assistance for participants and potential participants in the Microloan Demonstration Program to give such participants and potential participants such knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs."; and

(5) in paragraph (9)(B)—

(A) by striking "3 percent" and inserting "7 percent"; and

(B) by inserting "and nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing" and "microlending organizations".

SEC. 7. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Section 223(b) of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 631 note) is amended by striking "Such proposed regulations shall not be published in the Federal Register.".

SEC. 8. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this Act.

SEC. 9. WHITE HOUSE CONFERENCE ON SMALL BUSINESS.

(a) DATES OF CONFERENCES.—Section 2 of the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended—

(1) by striking "January 1, 1994" and inserting "May 1, 1995";

(2) by striking "April 1, 1994" and inserting "December 31, 1995"; and

(3) by striking "December 1, 1992" and inserting "March 1, 1994".

(b) APPOINTMENT OF COMMISSIONERS.—Section 5(a) of the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended by striking "The President" and inserting "Not later than 30 days after the date of enactment of the Small Business Guaranteed Credit Enhancement Act of 1993, the President".

SEC. 10. NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) MEMBERSHIP.—

(1) NEW MEMBERS.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended in subsection (a)—

(A) by striking "nine" and inserting "eleven";

(B) in paragraph (1), by inserting ", the Secretary of Labor (or such Secretary's deputy)," after "(or such Secretary's deputy)";

(C) in paragraph (2), by striking "and" at the end;

(D) in paragraph (3), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(4) one member shall be appointed by the President.".

(2) APPOINTMENT DATE.—The first appointment required under section 403(a)(4) of the Women's Business Ownership Act of 1988 (as added by paragraph (1)(E)) shall be made not later than 90 days after the date of enactment of this Act.

(3) TERMS OF CURRENT MEMBERS.—Any member appointed under paragraph (2) or (3)

of section 403(a) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) and serving prior to the date of enactment of this Act shall continue to serve until the expiration of the term for which the member was appointed.

(4) CONFORMING AMENDMENT.—Section 403(b) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(A) in paragraph (1), by striking "section (a)(2) and (3)" and inserting "paragraphs (2), (3), and (4) of subsection (a)";

(B) in paragraph (2)(C), by striking "subsection (a)(2) and (3)" and inserting "paragraphs (2), (3), and (4) of subsection (a)"; and

(C) in paragraph (2)(F)—

(i) by striking "(1) Two" and inserting "(i) Three"; and

(ii) by striking "(2) A majority" and inserting "(ii) A majority".

(5) DELETION OF OBSOLETE REFERENCES.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking "rate of basic pay payable for GS–18 of the General Schedule" each place it appears and inserting "rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code".

(b) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 407. AUTHORIZATION.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 for fiscal year 1994; and

"(2) $500,000 for fiscal year 1995.

(b) LIMITATION ON AUTHORITY.—New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(c) SUNSET.—This section shall cease to be effective on November 30, 1995.".

Amend the title so as to read: "A bill to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes.".

Mr. BUMPERS. Mr. President, I rise to speak as the Senate turns to consideration of S. 1274, which is on the Senate Calendar. The Committee on Small Business favorably reported this measure, with an amendment, by a unanimous vote on Wednesday, July 28. Several Senators joined me in introducing this bill approximately 1 week earlier, and the committee received testimony on this measure and the administration's budget proposals for SBA on Thursday, July 22. Obviously, this short timeframe does not reflect the amount of work which has gone into the bill over a period of several months.

S. 1274, the Small Business Guaranteed Credit Enhancement Act of 1993, makes far-reaching reforms in the SBA section 7(a) lending program. This bill, Mr. President, does exactly what President Clinton and Vice President GORE have been talking about since before their election. It is part of reinventing government. It is part of doing things smarter and more efficiently and effectively. It is absolutely necessary if we are to respond to the crying needs of increasing number of small businesses for access to capital and credit, and if we are to do so without increasing Federal spending.

These changes will reduce the cost of individual 7(a) loans, while placing the program on a sounder financial footing for years to come. Let me state for the record briefly how this program works. The Small Business Administration participates with banks in partially guaranteeing loans to small firms which would otherwise be unable to get financing. The borrower pays a 2 percent up-front guaranty fee. Interest rates are established by regulation at not more than 2.75 percent above the prime rate, and are not subsidized in any way. Actual interest rates are often below the maximum. Since it is a loan guaranty program rather than a direct loan program, Congress annually appropriates an amount of money equal to the expected cost of the loans over their lifetime. Under the Credit Reform Act of 1990, a complex mathematical formula controlled by the Office of Management and Budget establishes the so-called subsidy cost for this program, like other loan programs. Presently, the subsidy cost for the 7(a) program for 1994 is 4.9 percent, but this figure will fall to 4.70 percent by October due to a technical adjustment in interest payments on defaulted loans. The subsidy percentage is divided into the amount of appropriated dollars and this figure produces the program level or total loan authority.

This bill cuts the subsidy cost of 7(a) loans from the current 4.92 to 2.09 percent. Simultaneously, we will be able to enlarge the 7(a) program from the currently appropriated guaranty level of $6.8 billion to $7.4 billion in fiscal year 1993, and $8 billion in fiscal year 1994. Of course, actual appropriations for the program are much less—$154.8 million. Enlargement of the 7(a) program in the current year can occur because the administration has agreed to rescore funds appropriated in the most recent supplemental as of the date of enactment. This will increase loan authority for the remainder of 1993. This point is extremely important in that any excess funds can be carried over to fiscal year 1994 and ease the burden on appropriations for next year.

Most importantly, this bill will allow for increases in SBA lending at no additional cost to the taxpayers because these savings will be borne, almost without exception, by the lending institutions rather than by the small business borrowers. Incidentally, S. 1274, as reported, reduces the subsidy for 7(a) loans and thereby produces budget savings even more than the ambitious targets set by the administration budget proposal. The administration proposal would allow for $7.036 billion in loans for 1994, while this bill will produce $7.407 billion in loans using the administration request of $154.8 million in appropriations.

This bill will reduce the Government's guaranty from 85 to 75 percent on loans longer than 10 years and greater than $155,000, while protecting the smaller borrower by maintaining a 90 percent guaranty on loans less than $155.000. Loans greater than $155,000 but for less than 10 years will also continue with the current guaranty of 85 percent. The exception to this rule will be loans made under the Preferred Lender Program [PLP], which will carry an SBA guaranty of 75 percent.

Savings will also be achieved through a modest fee of one-fourth of 1 percent on the declining principal balance of all new section 7(a) loans. This fee will be paid by the lending institutions. It is possible that in some cases this fee may result in slightly higher interest rates, but generally that should not be the case. For banks already making loans at the maximum rate prescribed by SBA—which is 2.25 percent above New York prime for loans under 7 years and 2.75 percent above prime for loans of 7 years and more—the quarter-point fee will have to be absorbed by the lender. In many other areas, market competition for SBA loans will keep interest rates below the maximum, sometimes well below.

While banks are not enthusiastic about new fees, I believe the program is sufficiently profitable that lenders will continue to participate in the 7(a) program. This is especially true for loans sold in the secondary market where lenders are realizing significant premiums above par. More importantly, lenders and borrowers alike can be confident about the future of the 7(a) program.

Finally, the bill imposes an excess premium fee on lenders who sell 7(a) loans in the secondary market for prices above 110 percent of par. As I indicated, there have been a number of such sales which yield extraordinary profits for the lenders. I certainly have nothing against banks making a profit since that is what free enterprise is all about. However, these large prices are due solely to the Government's guaranty on a loan which carries an interest rate much higher than comparable Treasury securities or even agency paper. Frankly, 110 percent of par is a rich price for a bank to receive, and at least some of the excess above that should be used to support this program and defray the Government's costs. Hence, one-half of any premium in excess of 110 will be remitted to the Government. Each of these measures has been scored by the administration according to a mathematical model which is dictated by the Credit Reform Act of 1990, as follows:

Reductions to subsidy rate for 7(a) program—current rate: 4.92 percent or 492 basis points.

First, impose a one-quarter percent fee on the declining balance of all loans

guaranteed, to be collected either directly by SBA or through a fiscal and transfer agent. Saves 110 basis points.

Second, decrease guaranteed percentage of PLP loans from 80 to 75 percent. Saves 17 basis points.

Third, impose an excess premium fee on loans sold in the secondary market at a premium of over 110 basis points, such fee equal to 50 percent of the excess premium. Saves 73 basis points.

Fourth, leave guaranteed percentage at 90 percent for loans under $155,000, but decrease guarantee percentage from 85 to 75 percent on loans of more than $155,000 with maturities of longer than 10 years. Saves 61 basis points.

Demand for 7(a) loans, as Senators well know, has skyrocketed since the beginning of the so-called credit crunch. The 7(a) program level has almost doubled in the last 2 fiscal years from about $3.5 billion at the beginning of 1992 to $6.8 billion under the current supplemental appropriation. This increase has been possible only because of supplemental appropriations, which are becoming a thing of the past. In 1992, Congress and President Bush agreed to provide emergency spending authority to finance new small business loans, and this year President Clinton and the Congress provided new loan authority by making a number of reductions and transfers from other Federal programs. This bill will allow lenders and borrowers to look to the future with confidence that the SBA will be able to meet the credit needs of the most vital sector of our economy.

Everyone who supports this bill can take credit for not only an expanded 7(a) program, but for a program which is less onerous to all concerned than the administration's proposal. This bill reduces the guaranteed percentage less and also imposes less in fees on most lenders than the administration proposed. It also reduces the subsidy cost more than the administration proposal. The administration had proposed guaranty levels as low as 70 percent on loans greater than 10 years, and we have been able to avoid that more stringent step.

Personally, I would prefer that we did not have to lower guaranty percentages quite as much as are done in this bill, but I am persuaded that the overwhelming majority of loans which are made under the present program will still be made under these new rules. It remains the intent of Congress that this program provide a source of stable debt financing for small businesses which could not obtain it elsewhere. Long-term financing remains the primary goal of the program. Banks are simply unable to extend long-term loans for plant and equipment to most small businesses without the SBA guaranty.

The General Accounting Office found in 1983 that some 40 percent of all long-term small business loans in the banking system are made with the SBA guaranty. I suspect that percentage has grown since then, and I intend to ask GAO to update that study.

With cooperation on both sides, it remains possible that we might pass this legislation and send it to the President before Senators return to their States for the August recess. If so, according to SBA Administrator Bowles, we would increase the value of the supplemental 7(a) funding approved last month—by making the money go further—by $1.6 billion. Loan authority which is not used in 1993 can be carried over to 1994. Hence, time is of the essence in passing this measure.

This bill, as I indicated, was reported unanimously by the Small Business Committee with one small amendment in the committee which retains current authorization of appropriations for the White House Conference on Small Business. The bill has been cosponsored by Senators WOFFORD, KOHL, DOMENICI, LIEBERMAN, HEFLIN, WELLSTONE, HOLLINGS, LEVIN, CHAFEE, DODD, MITCHELL, KERRY, and MOSELEY-BRAUN. I hope every Member of the Senate will join us in supporting the bill.

I am also hopeful that the House will accept this bill and send it to the President. If so, Members of Congress can rightly go to their businessowners and bankers and tell them that Congress has done something meaningful to alleviate the credit crunch, and that we have done so without increasing spending.

Because of the shortness of time before the upcoming recess, the committee was not able to write a formal report to accompany this bill. However, and in lieu thereof, I have attached a section-by-section analysis of the bill and I ask unanimous consent that it be printed in the RECORD.

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

S. 1274, THE SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title, Table of Contents

The short title of S. 1274 is "The Small Business Guaranteed Credit Enhancement Act of 1993."

Section 2. General Authorizations for Fiscal Years 1993 and 1994

This section amends section 20 of the Small Business Act (15 U.S.C. 631 note) to increase the authorizations of appropriations for the Small Business Administration's (SBA's) 7(a) Guaranteed Business Loan program (7(a) program) and 504 Development Company program (504 program). The 7(a) program and 504 program authorizations are increased for fiscal year 1993 to $7.5 billion and $900 million, respectively, and for fiscal year 1994 to $8 billion and $1.2 billion, respectively. The increases contained in this section are in response to escalating demand for these programs during fiscal years 1992 and 1993 due to reluctance on the part of the lenders to make loans to small businesses. Indications are that fiscal year 1994 demand for both programs will also exceed the program levels initially anticipated.

The increases in fiscal year 1993 authorizations will accommodate additional appropriations already provided by Congress for the 7(a) program in the Supplemental Appropriations Act of Fiscal Year 1993 (Pub. L. 103–50) as well as the existing appropriations that SBA is prepared to reprogram to the 504 program.

In addition, section 2 makes technical corrections to section 20 of the Small Business Act to conform duplicatively numbered subsections that were enacted during the 102nd Congress.

Section 3. Extension of State Limitation on Interest Rates

This section amends subsection 112(c) of the Small Business Administration Reauthorization and Amendments Act of 1988 (Pub. L. 100–590) in order to permanently supersede State usury laws with respect to the lender's portion of a 504 Development Company loan. Since 1988, State usury laws have not applied to the 504 program pursuant to this provision. Such usury overrides are frequently included in Federal financing programs.

Section 4. Guaranteed Business Loan Program Amendments

Section 4 amends subsection 7(a) of the Small Business Act (15 U.S.C. 636(a)) to make four changes in the structure of the 7(a) program. The aim of these changes is to reduce the subsidy rate applied to the program under the requirements of the Credit Reform Act of 1990 so that the funds appropriated in fiscal year 1994 and later years will support higher 7(a) program levels. Like the changes in section 2, these changes result from the markedly increased demand for the 7(a) program over the last two years and the likelihood that the high demand will continue or increase further during fiscal year 1994 and beyond.

The first change amends section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) to provide SBA with authority to collect an "excess premium fee" on any guaranteed portion of a 7(a) loan which is sold in the secondary market at more than 110 percent of its face value. The amount of the fee would be equal to half of the amount of the sale price which exceeds 110 percent of the face value of the portion sold. For example, if the guaranteed portion of a loan were $100,000 and its sale price on the secondary market were $114,000, this section would require the lender selling the guaranteed portion to remit to SBA one half of the amount above $110,000, or $2,000. This authority to collect an excess premium fee expires on September 30, 1996.

The second change amends section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) to decrease the percentage of a 7(a) loan that SBA is authorized to guarantee in cases where the loan amount exceeds $155,000 and the maturity of the loan is 10 years or longer. In such cases, this section authorizes SBA to guarantee up to 75 percent of the loan amount.

The third change also amends section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) to reduce the percentage of a 7(a) loan that SBA is authorized to guarantee in cases where the lender making the loan is participating in SBA's Preferred Lender Program (PLP). Under this provision, SBA is authorized to guarantee up to 75 percent of a 7(a) loan made in the PLP program.

Preferred Lenders are those lenders with proven track records in the 7(a) program to whom SBA delegates guarantee authority. SBA does not review each loan made by a

Preferred Lender. In exchange for such delegation, the Preferred Lenders have traditionally received lower guarantees and consequently have assumed greater risks with respect to the loans made under this program.

The fourth change amends section 7(a) by adding a new paragraph (22) which authorizes SBA to collect an annual fee on each 7(a) loan equal to one-quarter of one percent of the declining principal balance. This section also authorizes SBA to charge a reasonable late fee to lenders who fail to remit the annual fee in a timely fashion. SBA may collect the annual fee or late penalties directly from the lenders or arrange to do so through a fiscal and transfer agent.

In implementing these changes, the Committee cautions SBA and participating 7(a) lenders to keep paperwork to the minimum needed to comply with applicable laws and to protect the government's interests as guarantor.

The Committee finds that of the 14,000 banks in the United States, 11,000 are enrolled with the Small Business Administration (SBA), but only about 1,000 are active in SBA finance programs. SBA lending programs are financially attractive to banks while minimizing financial burdens to borrowers. However, part of the reason for the relatively low level of bank participation is that the aggregate paperwork burden facing both borrowers and banks has become excessive. The Committee believes that, in practice, the paperwork burden associated with SBA finance programs dissuades prospective borrowers from applying and prospective lenders from participating. Moreover, the paperwork burden increases the barriers to small business financing and requires small businesses to incur increased costs.

At the same time, the Committee believes that the highest level of program integrity must be maintained, and that the current level of underwriting standards should not be compromised. Paperwork burdens which result in increased costs for both borrowers and lenders but do not have a clear and precise rationale with regard to the integrity of the program should be reviewed. Within that operating context, the Committee urges the SBA to undertake an administrative review of the current paperwork burdens facing both lenders and borrowers and, where practicable, take appropriate actions to remove such burdens. The Committee also welcomes suggestions regarding the curtailment of paperwork burdens mandated by statute.

Section 5. Interest Rate for Preferred Lenders Program

This section amends section 7(a)(2) to cap the interest rate that may be charged by a Preferred Lender. Prior to this legislation, there was no ceiling on interest rates in the Preferred Lender Program. This section ties the interest rates in the Preferred Lender Program to interest rates applicable to so-called "regular" 7(a) loans and to the Certified Lender program. SBA has set those rates by regulation. Under this provision, if SBA changes the interest rates for the regular 7(a) program, the interest rates for PLP loans would change in an identical manner.

Section 6. Microloan Program Amendments

This section amends section 7(m) of the Small Business Act (15 U.S.C. 636(m)) to make changes to the Microloan Demonstration Program. One change would increase the maximum loan amount permitted under this program for microlenders that receive SBA technical assistance grants only. Such lenders would be permitted to loan up to $25,000 to each borrower, which is consistent with the maximum loan amount for other microloan program participants.

Currently, only six Microloan program participants receive grants. This section would increase that number to twelve. In the fiscal year 1993 funding cycle, SBA received a large number of applications for this type of Microloan program participation. The Committee believes that since the Microloan program is a demonstration program, this type of program participation should be tested more widely so that it can be appropriately evaluated at the end of the demonstration period.

The next change permits microloan intermediaries which make the smallest loans, therefore qualifying for an additional five percent technical assistance grant, to use that additional five percent for loan fund administration.

The last issue addressed by this section is training for microloan intermediaries. As the program has expanded, Congress has authorized and appropriated funds for training of the intermediaries. Such training was authorized in order to maintain the high level of operations that exists among the most experienced intermediaries after whom the program was modeled. In furtherance of that goal, this section would authorize SBA to use seven per cent of its loan fund for intermediary training and would permit SBA, either directly or through a training provider, to provide training to intermediaries or potential intermediaries.

Section 7. Small Business Development Center Program

This section deletes the restriction on SBA with respect to publishing regulations for Small Business Development Center program. The restriction is deleted from section 223(b) of the Small Business Credit and Business Opportunity Enhancement Act of 1992.

Section 8. Regulations

This section requires SBA to publish interim final rules to implement this Act within 60 days of enactment.

Section 9. White House Conference on Small Business

This section amends section 2 of the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) to change the start date for the local and regional conferences to March 1, 1994, and the time frame for the national conference to be between May 1, 1995, and December 31, 1995.

This section also amends section 5(a) of the same act to require the President to appoint Commissioners to the White House Conference on Small Business within 30 days after the enactment of the Small Business Guaranteed Credit Enhancement Act of 1993.

Section 10. National Woman's Business Council

This section amends the Section 403 of the Women's Business Ownership Act of 1988 (Pub. L. 100-533). Section 10 expands the membership of the National Women's Business Council from nine to eleven members. The new membership will include the Secretary of Labor, or such Secretary's Deputy, and a person appointed by the President from the small business community. Any member appointed to the Council by the House of Representatives or the Senate prior to the enactment of this Act may continue to fulfill the remainder of his or her term.

Section 10 also amends Section 407 of the Women's Business Ownership Act of 1988 (Pub. L. 100-533) by authorizing $500,000 per year to carry out the activities of the Council in fiscal years 1994 and 1995. This authorization will cease to be effective November 30, 1995.

So the bill (S. 1274), as amended, was deemed read three times and passed.

SENIOR CITIZENS AGAINST MARKETING SCAMS ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar Order No. 158, S. 557, a bill to combat telemarketing fraud.

The PRESIDING OFFICER. The clerk will report

The legislative clerk read as follows:

A bill (S. 557) to combat telemarketing fraud.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, today, the Senate is considering S. 557, the Senior Citizens Marketing SCAMS Act of 1993—SCAMS. This important legislation is aimed at better equipping Federal law enforcement and victims in the interest of preventing, investigating, and prosecuting telemarketing fraud. It has broad bipartisan support as well as the support of the American Telemarketing Association.

Earlier this year, the FBI announced the results of an unprecedented undercover investigation into telemarketing fraud which began more than 2 years ago in Salt Lake City, UT. Unfortunately, the trusting people of my home State have been favorite targets of scam artists. Several hundred arrests were made nationally in an operation encompassing 18 FBI field offices. The FBI is to be commended. Still, more can and should be done.

This legislation is cosponsored by Senator BIDEN, Senator THURMOND, Senator MOSELEY-BRAUN, Senator DECONCINI, Senator SIMPSON, Senator HATFIELD, Senator COHEN, and Senator PRESSLER. SCAMS authorizes additional Federal law enforcement resources to combat telemarketing fraud. SCAMS also creates a new Federal statute criminalizing telemarketing fraud, and it enhances penalties for these crooked acts when senior citizens are the principal victims. The bill also establishes a reward program for tips leading to convictions of telemarketing crooks and provides for public prevention and awareness initiatives for senior citizens.

The FBI estimates annual losses to the public from illicit telemarketing operations to be in the billions of dollars. A Lou Harris survey indicate over 5 million Americans have made telephone purchases they felt were based on false representations. And, of those cheated out of their money, less than one-third reported the matter to authorities.

Continued law enforcement and greater public education can bring

about an end to these scams. Passage of this Hatch-Biden bill, SCAMS, will help accomplish this goal.

For these reasons, I urge my colleagues to support this bill.

Mr. President, I ask that the discussion text of the committee's draft report on S. 557, which has not yet been printed, be printed in the RECORD immediately following my remarks.

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

S. 557, THE "SENIOR CITIZENS AGAINST MARKETING SCAMS ACT OF 1993"

I. PURPOSE

Senator Hatch, joined by Chairman Biden and Senators Moseley-Braun, Thurmond, and DeConcini, introduced the "Senior Citizens Against Marketing Scams Act of 1993" on March 10, 1993 to fight the growing problem of illicit telemarketing. Recently, the Federal Bureau of Investigation (FBI) announced the results of an unprecedented undercover investigation into telemarketing fraud which began more than two years ago in Salt Lake City, Utah. Fifty-six people and seven companies in Utah were indicated. Several hundred arrests were made nationally in an operation encompassing 18 FBI field offices. The FBI is to be commended. Still, there is clearly more than can and should be done and the changes in law provided in this Act will help to ensure a tougher and more objective effort to combat crimes of telemarketing fraud.

Many Americans, but particularly older men and women, have been targeted and victimized by illicit telemarketers. Some of these seniors are victimized repeatedly, losing large amounts of their hard earned savings. The FBI found that these illicit operations target the elderly 34 percent of the time.

While most of the telemarketing industry is legitimate, a growing number of illicit outfits are operating nationwide. In addition to consumers, the victims of telemarketing fraud include banks, credit card companies, businesses, and, of course, legitimate telemarketing companies themselves.

The "Senior Citizens Against Marketing Scams Act of 1993" is intended to respond both to the need for greater law enforcement resources and the need for greater public awareness, especially among older Americans. It authorizes additional federal law enforcement resources to combat telemarketing fraud, creates a new federal statute criminalizing telemarketing fraud, and enhances penalties for these acts when older people are the principal victims. The Act also establishes a national telemarketing fraud hotline and creates a reward program for tips leading to convictions of illicit telemarketing operators. Finally, and perhaps most importantly, the Act provides for public prevention and awareness initiatives for senior citizens.

II. LEGISLATIVE HISTORY

On March 10, 1993, Senator Hatch, joined by Chairman Biden, Senators Moseley-Braun, Thurmond, and DeConcini introduced S. 557, the "Senior Citizens Against Marketing Scams Act of 1993" (SCAMS).

At the Judiciary Committee's July 22, 1993 executive business meeting, Senator Hatch moved that the Act be favorably reported. No amendments were submitted and the bill was reported favorably out of the Committee by voice vote.

III. DISCUSSION

A. Background: The SCAMS Act embodies a significant step in our nation's effort to address a new form of fraud that makes use of our growing and increasingly efficient telecommunications system. The FBI has estimated annual losses to the public from illicit telemarketing operations to be in the billions of dollars. This is not surprising since approximately 92% of Americans have received postcards in the mail informing them they were winners of a contest. Over 53.6 million Americans have responded to such mailings. The Committee is not suggesting that all of these offerings are fraudulent. Indeed, many are legitimate businesses and organizations that provide useful services to the public. Still, many are illicit and often represent the first step of complex, illicit telemarketing operations.[1]

The telemarketing industry employs over 3 million people nationwide in an industry that places consumer spending at over $400 billion annually.[2] The use of telemarketing is expected to increase in the coming years as new technologies will make telemarketing an even more attractive and efficient means of conducting business for the consumer. Telemarketing eliminates the physical and geographical impediments consumers and businesses have faced in trying to access markets previously closed to them. Many legitimate businesses and organizations utilize multiple telephone solicitations and mass mailings to conduct legitimate business. Given the efficiency of modern telecommunications, consumer interest, and the amount of money involved, the potential for victimization by illicit telemarketing operations is high. Legitimate telemarketing services have recognized this potential and have united to develop standards, practices and guidelines for all telemarketers and to condemn all fraudulent practices.[3] Still, illegal telemarketers continue to operate because they are designed to resemble legitimate businesses, thereby thwarting capture and frustrating prosecutive efforts.[4]

The FBI has identified two categories of telemarketing fraud. The first involves schemes aimed at a high volume of victims with a comparatively low loss per victim. Such schemes might involve the fraudulent sale of such things as office or beauty products, or travel packages. The second category of telemarketing fraud involves a low number of victims but a comparatively high loss per victim. Examples here might include phony land sales, oil or gas leases, and precious metals or stones.[5]

The trend had been for illicit telemarketers to change locations and names almost on a monthly basis in order to avoid detection and arrest. According to the FBI, this is no longer the case. They now operate in several states and call and solicit business from victims in other states. Fraudulent telemarketers take advantage of the fact that most consumers who have been defrauded will make their complaints known to local law enforcement and consumer agencies which, generally, do not engage in multi-jurisdictional sharing of such information.[6]

B. Victims: A major problem in fighting illegal telemarketing is identifying the victims of such fraud. A Lou Harris survey indicated over five million Americans have made telephone purchases they felt were based on false representations. And, of those defrauded, less than a third reported the matter to authorities. Other estimates are more troubling. One congressional committee estimated that only 1 in 10,000 victims of telemarketing fraud report the fraud to appropriate authorities and that illegal telemarketing costs consumers between $3–$40 billion annually.[7]

Even more troubling is the fact that older Americans are increasingly targeted and victimized by these scams. The FBI found that these operations target the elderly 34 percent of the time. Telemarketers do so because the elderly are easily accessible by phone, usually intent on enlarging their savings for the benefit of grandchildren, often less suspicious, sometimes possess poor memories, and usually too embarrassed to inform family or law enforcement once they recognize the deceit.[8]

Unscrupulous telemarketers targeting the elderly are not the only group preying upon vulnerable seniors, although they certainly are a large component of the overall problem. As the Senate Special Committee on Aging noted in its 1992 hearing on consumer fraud and the elderly, deceptive tactics employed by perpetrators of fraud are found in telemarketing, in door-to-door sales, and in a wide variety of schemes involving the mails. Older people are more accessible to con artists' solicitations because they are more easily contacted by phone, by mail and in person. Nevertheless, the Committee noted that it was important to eliminate the stereotype of seniors as helpless victims and to increase their awareness for the types of fraud that mark them for victimization.

C. S. 557: The SCAMS Act recognizes the truly national scope of illicit telemarketing. The Act is intended to respond to the need for greater law enforcement resources in this area and to promote greater public awareness, especially among older Americans. The Act authorizes additional federal law enforcement resources to combat telemarketing fraud, enhances federal law to better equip law enforcement in combatting such fraud, and provides funding for public awareness initiatives—especially for older Americans.

The Act creates a new federal statute which criminalizes telemarketing fraud. The Act makes it clear that existing federal mail and wire fraud statutes cover telemarketing activity. The Act also provides up to an additional five years imprisonment for fraud committed by telemarketers and up to ten additional years imprisonment for telemarketing fraud cases aimed at defrauding older citizens. Further, the Act provides for fines of up to $250,000 and mandates restitution to victims of telemarketing fraud.

In addition to enhancing penalties, the Act also subjects fraudulent telemarketers' proceeds to the powerful weapon of criminal forfeiture. Criminal forfeiture will permit federal prosecutors to seize and forfeit the real or personal property gained as a direct or indirect result of the illicit telemarketing offenses.

The Act also takes steps to ensure that all fraud related offenses against older victims are properly punished. The Act instructs the Sentencing Commission to review its guidelines to ensure that fraudulent crimes

[1] *Operation Disconnect, Congressional Briefing Material*, Federal Bureau of Investigation (March 1993) [hereinafter FBI *Operation Disconnect*].

[2] FBI *Operation Disconnect*, *supra* note 1, at 3.

[3] American Telemarketing Association, Inc., Position Statement (February 12, 1993).

[4] FBI *Operation Disconnect*, *supra* note 1, at 6.

[5] *Id.* at 7.

[6] *Id.* at 8.

[7] *The Scourge of Telemarketing Fraud: What Can Be Done Against It?*, Committee on Government Operations, Subcommittee on Commerce, Consumer, and Monetary Affairs at 7. (November 1991)

[8] *Id.* at 5.

against senior citizens receive appropriate punishment. the Commission will report to Congress its findings and any action it has taken.

In order to encourage victims of illicit telemarketing to report the crime to law enforcement officials, the Act authorizes the Attorney General to provide rewards of up to $10,000 for information, unknown to the government, which results in a conviction for telemarketing fraud.

The Act authorizes an additional $23.5 million in resources to better equip federal law enforcement and to make the general public, particularly potential older victims, more aware of the problem. Much of this money—$13.5 million—will be used to hire additional FBI agents and assistant United States Attorneys to investigate and prosecute telemarketing fraud cases. The rest, $10 million, will go to the Department of Justice to establish and oversee a national public awareness and prevention initiative for older Americans.

The Act also incorporates a provision authored by Chairman Biden which will provide a greater degree of protection to consumers and legitimate businesses from illicit telemarketing schemes and other fraudulent enterprises that rely on credit card information. Fraudulent telemarketers often prey on people with troubled credit history, and also use credit card information obtained under false pretenses to defraud their victims. The credit card fraud provision enhances existing federal law in three ways. First, it outlaws solicitations for the purchase of a credit card without the authorization of the credit card company. Second, it establishes an offense for the fraudulent taking of payment via credit card for goods or services that are either never delivered or far inferior to those that were promised. Such frauds usually are perpetrated over the phone. Third, it criminalizes the laundering of credit card receipts. This offense, referred to as a "factoring scheme," typically involves the perpetrator of the fraud and a third-party intermediary acting as a broker. In this scam, a merchant with access to the credit card system is persuaded to submit fraudulent credit card slips. Policing by credit card companies is ineffective because identifying the perpetrator of the fraud and denying him access to the system will not prevent submission of the phony receipts.

Finally, the Act makes a number of technical improvements to the law aimed at streamlining existing fraud laws. For example, the Act broadens the scope of the mail fraud statute to cover fraud conducted via private interstate carriers. As well, a national criminal justice toll-free hot-line for inquiries about telemarketers is established in the Department of Justice.

IV. SECTION-BY-SECTION

Section 1. Short Title: The "Senior Citizens Against Marketing Scams Act of 1993."

Section 2. Findings and Declaration: Sets forth the growth of illegal telemarketing and the need for Congressional action.

Section 3. Enhanced Penalties for Telemarketing Fraud: Creates a new federal chapter 113A in title 18 which criminalizes telemarketing fraud. Provides up to an additional five years imprisonment for fraud committed by telemarketers and up to ten additional years imprisonment for telemarketing fraud cases aimed at defrauding senior citizens. Also provides for fines of up to $250,000. Also mandates restitution to victims of telemarketing fraud.

Section 4. Forfeiture of Fraud Proceeds: Amends section 982(a) of title 18 to subject fraudulent telemarketers' proceeds to criminal forfeiture.

Section 5. Increased Penalties for Fraud Against Older Victims: Instructs the Sentencing Commission to insure that fraudulent crimes against senior citizens receive appropriate punishment.

Section 6. Rewards for Information Leading to Prosecution and Conviction: Authorizes the Attorney General to provide rewards of up to $10,000 for information, unknown to the government, which results in a conviction for telemarketing fraud.

Section 7. Authorization of Appropriations: Authorizes $13.5 million for additional FBI agents and assistant U.S. Attorneys to investigate and prosecute telemarketing fraud cases. Also authorizes $10 million for the Department of Justice to oversee national public awareness and prevention initiatives for older Americans.

Section 8. Broadening Application of Mail Fraud Statute: Amends section 1341 of title 18 to broadens the scope of the mail fraud statute to cover fraud conducted via private interstate carriers

Section 9. Fraud and Related Activity in Connection With Access Devices: Amends section 1029 of title 18 to enhance the scope of federal credit card fraud statute.

Section 10. Information Network: Directs the Attorney General to establish a national toll-free hot-line for enquiries about telemarketers.

• Mr. COHEN. Mr. President, I support S. 557, the Senior Citizens Against Marketing Scams Act of 1993, of which I am a cosponsor and which has now been reported to the Senate floor for consideration. I was very pleased that the Judiciary Committee expeditiously marked up this legislation to address the growing problems of scams targeting senior citizens.

For the past several months, my staff on the Senate Special Committee on Aging has been investigating problems of consumer fraud against the elderly. Last September, the Aging Committee held the first of a series of hearings on telemarketing and other types of scams preying on the elderly.

We heard compelling testimony from elderly victims who had lost significant portions of their life savings to con artists. These scams take a variety of forms such as prize giveaway schemes which dupe consumers into purchasing merchandise or paying handling fees with the promise that they will receive substantial cash awards or other valuable prizes. Of course, the prize never materializes and the customer's money is long gone.

We also investigated the widespread problem of groups peddling living trusts that are drafted improperly or do not meet applicable State laws. These scams have operated door-to-door and over the phone in many States, including my State of Maine. Thousands of senior citizens purchased living trusts under false pretenses and lost substantial amounts of hard-earned savings.

The committee most recently held a hearing on investment schemes that targeted the elderly, such as mutual fund and penny stock deals promising huge returns while misrepresenting the safety of the investment.

What our investigation found was that telemarketing is a major tool used by these scam artists to defraud senior citizens. Mandatory restitution to senior victims of telemarketing fraud, enhanced penalties for perpetrators of these crimes, and additional resources for prosecutors and law enforcement officials are critical to effectively combat this abuse of the most vulnerable members of our society. I applaud Senators HATCH and BIDEN for these initiatives.

Our investigation also revealed that telemarketing is only one of many tools used by these creative snake oil salesmen. What we heard from State attorneys general testifying before the Aging Committee is that when we crack down on telemarketing, the same problem will pop us in the form of mail order fraud and other types of consumer fraud that targets the elderly.

S. 1217, the Elderly Consumer Fraud Protection Act which I introduced, was a result of the Aging Committee's consumer fraud hearing. S. 1217 contained provisions very close to S. 557, particularly in the area of telemarketing fraud, although it extended coverage to other types of consumer fraud perpetrated against the elderly such as door-to-door solicitations.

I believe that the Judiciary Committee bill will go far in curbing the scams uncovered in the Aging Committee's investigation. Every day there are new examples of the outrageous tactics that swindlers use to rob senior citizens of their savings, independence, and dignity. It is my hope that we will enact legislation this year to deal with this abhorrent and growing problem and I am pleased to be associated with the Judiciary Committee legislation.•

AMENDMENT NO. 745

Mr. FORD. Mr. President, I send to the desk a technical amendment on behalf of Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. HATCH, proposes an amendment numbered 745.

On page 5, line 3, strike "a significant number of" and insert "twenty or more".

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

The amendment (No. 745) 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, was read the third time, and passed, as follows:

S. 557

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 "Senior Citizens Against Marketing Scams Act of 1993".

SEC. 2. FINDINGS AND DECLARATION.

The Congress makes the following findings and declaration:

(1) Unprecedented Federal law enforcement investigations have uncovered a national network of illicit telemarketing operations.

(2) Most of the telemarketing industry is legitimate, employing over 3,000,000 people through direct and indirect means.

(3) Illicit telemarketers, however, are an increasing problem which victimizes our Nation's senior citizens in disproportionate numbers.

(4) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Department of Justice are not sufficient to ensure that there is adequate investigation of, and protection from, such fraud.

(5) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact. Telemarketers can also be very mobile, easily moving from State to State.

(6) It is estimated that victims lose billions of dollars a year as a result of telemarketing fraud.

(7) Consequently, Congress should enact legislation that will—

(A) enhance Federal law enforcement resources;

(B) ensure adequate punishment for telemarketing fraud; and

(C) educate the public.

SEC. 3. ENHANCED PENALTIES FOR TELEMARKETING FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended—

(1) by redesignating chapter 113A as chapter 113B; and

(2) by inserting after chapter 113 the following new chapter:

"CHAPTER 113A—TELEMARKETING FRAUD

"Sec.
"2325. Definition.
"2326. Enhanced penalties.
"2327. Restitution.

"§ 2325. Definition

"In this chapter, 'telemarketing'—

"(1) means a plan, program, promotion, or campaign that is conducted to induce—

"(A) purchases of goods or services; or

"(B) participation in a contest or sweepstakes,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant; but

"(2) does not include the solicitation of sales through the mailing of a catalog that—

"(A) contains a written description or illustration of the goods or services offered for sale;

"(B) includes the business address of the seller;

"(C) includes multiple pages of written material or illustration; and

"(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls take orders without further solicitation.

"§ 2326. Enhanced penalties

"An offender that is convicted of an offense under 1028, 1029, 1341, 1342, 1343, or 1344 in connection with the conduct of telemarketing—

"(1) may be imprisoned for a term of 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

"(2) in the case of an offense under any of those sections that—

"(A) victimized 20 or more persons over the age of 55; or

"(B) targeted persons over the age of 55,

may be imprisoned for a term of 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

"§ 2327. Restitution

"In sentencing an offender under section 2326, the court shall order the offender to pay restitution to any victims and may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity.".

(b) TECHNICAL AMENDMENTS.—

(1) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by striking the item relating to chapter 113A and inserting the following:

"113A. Telemarketing fraud 2325
"113B. Terrorism ..... 2331".

(2) CHAPTER 113B.—The chapter heading for chapter 113B of title 18, United States Code, as redesignated by subsection (a)(1), is amended to read as follows:

"CHAPTER 113B—TERRORISM".

SEC. 4. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) The Court, in sentencing an offender under section 2326, shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as a result of the offense.".

SEC. 5. INCREASED PENALTIES FOR FRAUD AGAINST OLDER VICTIMS.

(a) REVIEW.—The United States Sentencing Commission shall review and, if necessary, amend the sentencing guidelines to ensure that victim related adjustments for fraud offenses against older victims over the age of 55 are adequate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Sentencing Commission shall report to Congress the result of its review under subsection (a).

SEC. 6. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 2325 which results in a conviction.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal, State, or local government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of an allegation or transaction that has been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1994 for the purposes of carrying out this Act and the amendments made by this Act—

(1) $10,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 100 special agents and support staff to investigate telemarketing fraud cases;

(2) $3,500,000 to hire, equip, and train no fewer than 30 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute telemarketing fraud cases; and

(3) $10,000,000 for the Department of Justice to conduct, in cooperation with State and local law enforcement agencies and senior citizen advocacy organizations, public awareness and prevention initiatives for senior citizens, such as seminars and training.

SEC. 8. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 9. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(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) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 10. INFORMATION NETWORK.

(a) HOTLINE.—The Attorney General shall establish a national toll-free hotline for the purpose of—

(1) providing general information on telemarketing fraud to interested persons; and

(2) gathering information related to possible violations of this Act.

(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I appreciate the confidence the Republican side of the aisle has in me here this evening. I will report that all of those items I have offered to the Chair this evening have been cleared by the Republican side.

ORDERS FOR MONDAY, AUGUST 2, 1993

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Monday, August 2; 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; and that there then be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes, with the time until 10:30 a.m., Monday, to be equally divided between Senators LEVIN and DORGAN.

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

PROGRAM

Mr. FORD. Mr. President, I would like to announce for the information of the Senate and on behalf of the majority leader that on Monday at 10:30 a.m., it is the leader's intention to proceed to executive session to consider the Executive Calendar nominations on which unanimous consent agreements were obtained earlier today.

RECESS UNTIL 10 A.M., MONDAY, AUGUST 2, 1993

Mr. FORD Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 6:24 p.m., recessed until Monday, August 2, 1993, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 30, 1993:

DEPARTMENT OF COMMERCE

JEFFREY E. GARTEN, OF NEW YORK, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, VICE JOHN MICHAEL FARREN, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 30, 1993:

DEPARTMENT OF STATE

JOHN FRANCIS MAISTO, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

DAVID LAURENCE AARON, OF NEW YORK, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR.

ROBIN LYNN RAPHEL, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.

ALAN H. FLANIGAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

JAMES J. BLANCHARD, OF MICHIGAN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CANADA.

JEFFREY DAVIDOW, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VENEZUELA.

THOMAS J. DODD, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ORIENTAL REPUBLIC OF URUGUAY.

STUART E. EIZENSTAT, OF MARYLAND, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN COMMUNITIES, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

DONALD C. JOHNSON, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

RICHARD MENIFEE MOOSE, OF VIRGINIA, TO BE UNDER SECRETARY OF STATE FOR MANAGEMENT.

MARY M. RAISER, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS CHIEF OF PROTOCOL FOR THE WHITE HOUSE.

WALTER F. MONDALE, OF MINNESOTA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAPAN.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING ALAN R. HURDUS, AND ENDING DARCY FYOCK ZOTTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 13, 1993.