SENATE—*Friday, September 30, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

The PRESIDING OFFICER. This morning's prayer will be led by our guest chaplain, Dr. Arvol Looking Horse, keeper of the sacred pipe of the Sioux Nation.

PRAYER

The guest chaplain, the Reverend Dr. Arvol Looking Horse, offered the following prayer:

Tunkasila Wakantanka, Great Spirit, Creator of all things, I would like to pray to you in a humble way. I would like to pray from my heart. I would like to pray for wolakota, peace and harmony, to the four directions, to the Great Spirit, Mother Earth. I would like to pray for all people, all nations, for understanding the values of respect, generosity, and to humble ourselves that we understand Mother Earth, and to see and to hear from our hearts, that we would heal and pray for the seventh generation. I would like to pray not to forget the past but to complete it so we can feel good inside ourselves. And I would like to pray for health and happiness for all nations—Mitakuye owasin, all my relation. Thank you.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 30, 1994.

To the Senate:

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

ROBERT C.BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to request a conference on disagreeing votes of the two Houses on S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

Resolved, That the bill from the Senate, S. 3, entitled "An Act entitled the 'Congressional Spending Limit and Election Reform Act of 1993,'" do pass with amendments.

The Senate resumed consideration of the motion.

The ACTING PRESIDENT pro tempore. The time between now and 9:30 a.m. is equally divided and controlled between the Senator from Oklahoma [Mr. BOREN] and the Senator from Kentucky [Mr. MCCONNELL].

Who yields time?

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I ask unanimous consent that I be able to speak for 5 minutes of Senator BOREN's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Madam President, I want to just give one example that I think tells a very large story about the mix of money and politics in our country today. It is an example that comes from the health care debate that we have gone through here in the Congress. And I do think, by the way, that what has happened with health care makes the best case for campaign finance reform that I know.

Madam President, several months ago, I was invited to speak to a gathering of surgeons. There were about 350 surgeons. It was early morning. I was supposed to speak at 8:30. I arrived at 8:25. I went to the back of the room to get a cup of coffee, at which point the director, political director—a nice person, this is not a snide comment I am about to make—was talking to the doctors. And now I essentially quote him. He said when you go to see your Senator or Representative, you cannot give them a PAC check in their office. So they may want to go out in the hall to receive it, or if they do not go out in the hall they will tell you where to send it. Then he hesitated, and he looked at everybody and said with a smile, "But they will take it," at which point there was among 350 doctors this kind of cynical but also awkward laugh because, after all, if they thought there was something wrong with the taking of the money, they were doing the giving; they were part of this enterprise as well.

Now it was my turn to speak, and I stood up and said to the doctors, in all due respect to you and to others, I do not think Senators and Representatives, Democrats or Republicans, should be taking any of this political action committee money and—and—large contributions, should not be taking any contributions from anyone in the health care industry, broadly defined, over $100 per person.

Madam President, I thought there was going to be hostility, and instead there was almost a standing ovation, which really surprised me. Then I looked at everybody in the room. I was a teacher for 20 years. You were a teacher. You learn to read faces. I looked at these doctors, and I said now I understand what is going on here. You are told, or you actually believe that you have to come to the Nation's Capitol, checkbook in hand, to have influence. I am told I have to raise the average of $13,000 a day to be viable for reelection. No wonder people are losing confidence in this process. No wonder there is the anger.

This vote at 9:30 is a critically important vote. I hope people in the country will understand that this is a vote which just determines whether we can go to conference committee to try and work out an agreement whereby we can begin to reduce the huge amount of money that is injected into politics in our country. It is not a be all or an end all, but it certainly would make a huge difference. And I know the people in Minnesota, the people in Washington, the people in Kentucky, and people around the country find the amount of money that is spent on these races to be obscene, hate to see this money chase, feel that they are all too often cut out of the loop, feel that the Government is not responsive, and they want these elections to be their elections. These elections do not belong to the people of this country any longer.

Communication technology has become the main weapon of electoral conflict. It is capital intensive, requires huge bucks, and therefore those individuals, groups, and organizations that have those huge bucks are the people who can most affect our tenure

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

or lack of tenure. Therefore, they have too much access, too much influence, too much power, and too many people are left out.

This is as important a vote as Senators are going to cast in this Congress, and I hope Senators will vote for cloture so we can go to conference committee, so that we can work out what I think will be a very, very important reform which is all about making this process more accountable and making representative democracy operative in our country.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McCONNELL. Good morning, Madam President.

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

Mr. McCONNELL. Madam President, this vote we will have this morning will be an opportunity for us to for the last time this year, and I believe for the last time for years to come, put an end to the notion that it is somehow appropriate for the Government to dictate how much speech will be allowed in political campaigns in America, and, further, to have that speech paid for by the taxpayers of the United States. That notion, it seems to me, has been clearly discredited over the last few years and particularly in the course of this debate. Hopefully, this morning we can put that foolish notion to rest forever.

Just to recount a little bit of how we got to where we are, Madam President, the Senate passed a campaign finance bill September 17, 1993. That is last year, June of last year. On November 22, 1993, the House of Representatives passed a different version of the campaign finance bill. Now all these months later, just days before the final adjournment of the 103d Congress, the majority has decided it wants to appoint conferees to reconcile the two bills. Keep in mind, Madam President, these bills came out of the House and the Senate last year. Campaign finance bills are not like fine wine; their prospects do not improve with age. In fact, the older the vintage, the more likely the contents are spoiled goods.

Yet here we are today: after 10 months of Common Cause direct-mail solicitations; after 10 months of Roll Call and Congress Daily articles; after dozens and dozens of haranguing editorials in the Washington Post and the New York Times; after 10 months of speculation that it would be next week, next month, before the Easter recess, before the Memorial Day recess, before the Fourth of July recess, before the August recess; after 10 months during which the east coast froze and thawed and started getting chilly again; 10 months during which the Santa Monica Freeway collapsed and rose again from the rubble; one Super Bowl, one NBA final, one March Madness, one Dream Team, one World Cup, and one baseball strike later.

Finally, Senate, and House Democrats have come to an agreement among themselves.

After 10 tortuous, nail-biting, edge-of-your-seat months, and just when the suspense had become almost unbearable, Senate and House Democrats have broken the campaign finance gridlock—among themselves.

Yes, Madam President, it is true. Gridlock. As I say that awful, ugly word, shivers run down the spines of decent folk everywhere. I regret to inform you, Madam President, that gridlock has invaded these hallowed Chambers.

Yes, we have got trouble right here in River City. That starts with "T" and that rhymes with "G" and that stands for gridlock.

But the gridlock was just over on the other side of the aisle. Or to use the majority leader's favorite new word, Democratic obstructionism. Senate and House Democrats have been the ones holding up action on campaign finance reform for the last 10 months. That is where the gridlock has existed for nearly a year: on the other side, on their version of campaign finance reform. And what is truly amazing is that these bills, which were written entirely by the other side's congressional leadership, have been obstructed because they could not agree on what should be in their final package. It has been an epic struggle over the last year, but the truth is that Republicans have played no part in it.

It was the other side that was deadlocked over who to stick with the bill for a new entitlement program for politicians, or whether to even start such an entitlement program, given the violent opposition of most voters.

And then there was the critical issue of what to do about political action committees. PAC's: To be or not to be that was the question that bedeviled those meetings between House and Senate Democratic leaders.

Whether 'tis nobler in the campaign to suffer the deprivation of such outrageous fortune, or to take arms against a sea of challengers, and by accepting PAC money, defeat them. That was the question that wracked the very souls of those stalwart Democratic negotiators.

But now, after almost a year of bickering between House and Senate Democratic leaders on their own campaign finance bills, they have finally ended the gridlock—the obstructionism—among themselves.

A Democrats-only conference has produced a deal that only Common Cause could love: chockfull of PAC's, taxpayer financing for congressional campaigns, carefully concealed incumbent protection devices, separate rules for the House and Senate, and obscenely unconstitutional restrictions on free speech.

This is the kind of bill that gives gridlock a good name. The highlights of this deal are as follows:

PAC'S APLENTY

PAC contribution limits will be gently phased down to $6,000 per election cycle by 1998; this applies to both House and Senate candidates. Common Cause has stated publicly that lower PAC contribution limits will have virtually no effect on the total PAC receipts of House incumbents. A perfectly phony nonreform.

The aggregate limit for PAC contributions is increased for House candidates only, from 33 to 40 percent of total receipts. The net result: House incumbents will be able to dun more PAC's for more money.

Leadership PAC's maintained by Members of Congress will be phased out by the end of 1996—sort of the "soft trigger," you might call it. Of course there will be a new entitlement program for Congress. Complying House candidates will be eligible for food stamps for politicians: taxpayer-funded matching payments to buy their TV ads. This is the House Democrats' revenge for not getting their pay raise, probably.

All complying candidates will receive unlimited infusions of taxpayer dollars to counteract independent expenditures and excessive speech by their opponents.

All complying candidates will get a generous mail subsidy, paid for by everyone in America who buys stamps. Plus they will get a 50-percent broadcast discount, the latest unfunded mandate.

They are going to make the broadcast industry pay for these campaigns.

The other side has claimed that their entire proposal will cost just $168 million over 5 years. Well, that is a lot of money, but quite frankly it is pretty hard to see how it could only cost $168 million.

However, the other side's cost estimate is also simply incorrect. Leaving aside the independent expenditure counteracting funds, the mail subsidy, the financing of fringe candidates—all of which cost millions and millions of dollars—you can add it up on the back of a napkin that the basic package of matching funds for House candidates will run $174 million every 2 years.

And besides, what entitlement program has not ended up exceeding its initial cost projections?

They usually grow out of sight.

A lot of the funding for this new entitlement program comes from new taxes on speech. Among the funding provisions are income tax forms that will include an add-on of $5 per person, or $10 for joint filers, to fund campaigns for Congress. I bet that is going to get an overwhelming positive response from the people filing their tax returns.

PAC's will be charged a 5-percent reporting fee—that is, tax—on their total receipts, for the privilege of giving to House incumbents.

Everyone classified as a lobbyist will pay a fee—that is, tax—for the privilege of petitioning their Government. The filing fee for foreign agents will be increased.

All candidates will have to pay the top corporate tax rate on their campaign committee investment income; amazingly, it's not retroactive.

Then there is the speech tax which will impose the top corporate tax rate on the total receipts of any candidates who exceed the speech limit. That is a terrific idea. Maybe we could extend it further and tax pornography, dirty rock lyrics, TV violence, and how about newspaper editorials? That might be the favorite of many of us.

After helping to obstruct this bill for nearly a year, the majority leader is complaining that the Republicans' supposedly obstructionist tactics have not been used in the Senate for 210 years. My response is that the Senate has rarely seen a bill in its 210-year history that so deserved to be obstructed as this one.

Let us compare this 11th-hour deal to the principles outlined by the Republicans who supported cloture on the bill last year.

On PAC's: The Senate voted 86 to 11 last year to ban PAC contributions and leadership PAC's. The Republicans' principles—which was not my position—included: First, PAC contribution limits should be no higher than individual contribution limits; second, we should pursue aggressive aggregate limits; and third, the House and Senate must play by the same rules.

All of those were in the statement of principles of the Republicans last summer who supported cloture on the bill; not my position.

This deal fails on all three counts.

It would just phase down the PAC contribution limit to $6,000 per election cycle. Moreover, candidates could get up to $5,000 from PAC's before the primary, a measure clearly designed to benefit incumbents only.

This deal would also raise the aggregate limit for House candidates only to 40 percent of total receipts.

Not surprisingly, as of the middle of this year, House Democratic candidates have gotten on average 41 percent of their total receipts from PAC's.

As I said earlier, Common Cause has said that these lower contribution limits would have almost no impact on House PAC receipts. It is a nonreform, a transparent trick.

Let us look at the Republican statement of principles on taxpayer financing, Madam President. Again, this was reflected in a statement of principles last summer by the Republicans who supported cloture, not my position.

Let us look at the Republican statement of principles on taxpayer financing. Last year, their letter said that we should avoid taxpayer financing and we should not create a new entitlement program for politicians.

The Republicans' point No. 9 stipulated that the bill must "clearly incorporate the method for offsetting the cost;" and "if public financing is available during general elections, it must be available during primaries * * *." And House and Senate rules must be the same.

This deal again fails all of these principles.

The Democrats' 11th-hour deal provides matching funds for House campaigns only—no comparable funding for the Senate. There are no public funds available for primaries, which violates one of the Republican principles intended to protect challengers.

Further, although the deal suggests some obscenely unconstitutional ways to fund this new entitlement for politicians, it's not clear where they intend to stick the actual financing mechanisms.

It is also doubtful they will ever be able to come up with the money. I can just imagine the glut of taxpayers who will want to add another $10 to their tax bill on April 15—when they are already in a great mood—to pay for congressional campaign bumper stickers and negative ads.

Who dreams up these ideas, anyway?

Next, let us see how this deal stacks up against the Republican principle of same rules for the House and Senate.

As the Republican letter clearly stated,

> * * * the House and Senate must play by the same rules. If certain kinds of campaign practices are unacceptable for one body, they shouldn't be permitted in the other.

The Democrats' 11th-hour deal treats the House as if it is ethically challenged. It treats the House more leniently on PAC's, allows the House to send franked mass-mail during election years, and provides matching funds to House candidates in the general election.

The obvious question is: What happens if a House Member runs against a sitting Senator?

Let us go to another important issue raised by the group of Republicans who supported cloture last time.

They stipulated that the final bill should prohibit campaigns from paying back personal loans made by the candidate. This was an effort to close the millionaire's loophole—whereby wealthy candidates can loan their campaigns huge sums of money, and then pay themselves back with post-election contributions after they win.

In fact, the Senate-passed bill banned post-election paybacks of candidate loans.

However, the Democrats' 11th-hour deal disposed of that provision, citing constitutional reasons. It is comforting that the other side has finally discovered the Constitution on this issue—but not terribly convincing.

Let us look at another key issue. Last year, Senator JEFFORDS attached an important amendment to the Senate bill, which required full disclosure of all nonparty soft money—and allowed political parties to provide matching funds for candidates to respond.

The proposal before us would require disclosure of nonparty soft money, but it omits the crucial provision allowing political party matching funds.

As a result, candidates would be able to see who is shooting them and how much ammunition they have; but they would not have the wherewithal to shoot back. Some deal.

Finally, I want to mention one other issue where the other side has ignored our serious concerns. Last year, Senator COHEN offered a key amendment deleting the bill's controversial FEC enforcement provisions—including one section that gave the FEC general counsel—an unelected career bureaucrat—a tie-breaking vote to initiate investigations.

The 11th-hour deal put forth yesterday virtually ignores the legitimate concerns raised by Senator COHEN's amendment.

It would restore nearly all of the deleted enforcement provisions—except the section giving the general counsel tie-breaking vote. Instead, a Democratic leadership memo sent to the Republican group states that:

> Consideration is also being given to providing the General Counsel with subpoena power to expedite cases by eliminating need to get Commission approval for each subpoena.

The fact is that giving the general counsel unilateral subpoena power is a back-handed way of allowing him to initiate investigations without Commissioner approval. Another restored provision would give the FEC injunctive power to shut down campaigns for any alleged violations.

Taken point by point, this 11th-hour deal does not pass the reform test posed by Republicans who supported cloture last year. It does not even come close.

In conclusion, this is the kind of legislation that gives gridlock a good name.

The other side has helped to obstruct the progress of this bill for almost an entire year. The least we can do—as Republicans who want to stop this entitlement program for politicians—is obstruct it for another week.

His is the vote that counts. We now know what is in the other side's plan, and it is not going to change. Roll Call observed yesterday that any conference at this point would be a mere formality. They are right.

We do not need to drag this out any further: Now is the time to stop this terrible bill.

Mr. BOREN addressed the Chair.

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

Mr. BOREN. Madam President, how much time to I have?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. BOREN. I yield myself 8 minutes.

Madam President, there is an old tactic used in any political argument and that is to throw up a smokescreen if you do not want to really talk about the issue at hand. That is exactly what happened in this debate. We have had smokescreen after smokescreen after smokescreen thrown up in the course of this debate, because those opposing this basic reform do not want to really talk about the major issue.

The major issue is whether or not this Congress will finally put a stop to the money chase in American politics, whether or not we will finally adopt a system that will allow a reasonable amount of money to be spent, but not more than a reasonable amount; whether or not we can return competitiveness in American politics to competition based upon the ideas candidates put forward, based upon the character of those candidates, based upon the qualifications and experience of those candidates; or whether or not we are going to continue to have elections run and decided mainly on the basis of which candidate can raise the most money. That is the issue, clear and simple.

Do the American people want the Members of the Congress of the United States using their time in dealing and grappling with the problems at hand, being full-time policymakers, listening to the American people, or do they want us to be part-time policymakers and full-time fundraisers? Because if you are going to raise the $4 to $5 million in the average State, or $10 to $20 million in a large State—which it costs on the average, according to all the figures to successfully wage a race for the U.S. Senate—there is no way that you can be anything other than a full-time fundraiser.

The issue is whether or not we will take Congress off the auction block and make Congress again accountable to the average American citizen. As I have said time and time again on this floor in the last few days, well over 80 percent of the American people now say they do not believe that Congress cares about people like them. They do not believe that Congress represents people like them. We can no longer afford to play Russian roulette with the American political system by refusing to make reforms that would restore the trust and confidence of the American people back in their own political institutions. That is what is at issue here—whether or not we are going to have undue influence by those that have the ability to write thousand-dollar checks, or $5,000 and $10,000 PAC checks, or hold $300,000 and $400,000-a-night fundraisers here in Washington, or whether or not we are going to say that Members of the Congress should go back home to the grassroots, listen and talk to their people, learn about their problems, finance chair campaigns largely in contributions from the grassroots.

Is it good for this country? Can we really say it has been good for this country that the cost of campaigns, just during the 16 years I have served in the Senate, have gone from half a million dollars on the average to win a successful U.S. Senate race to over $4 million, up 52 percent in the last election cycle, well on the way to $10 million early in the next century. Is that good for the American political process? Is it good that over half of the money coming to over half the Members elected to this Congress, this sitting Congress, came not from the people in their own States and districts, not from people that have ever set foot in their States, but from special interest groups trying to affect the legislative agenda and the policy agenda of this country? Is that good?

If you can say that has been good for this country, that more and more of the money to finance campaigns has come not from the people, but from the political action committees, the interest groups outside the home State, then vote against this bill. If you can say you think it will be good for the political system for the average cost of campaigns, the cost of winning and mounting a successful race for the U.S. Senate, to have gone from half a million dollars to $4 million, on its way to $10 million and $20 million, then vote against this bill. Just say I like it as it is. If you think it is fair to have a system that protects incumbents and keeps out new people with new ideas and new hopes to contribute to their country, then vote against this bill, because under the current system with the unlimited right to raise money, incumbents, sitting Members of Congress, on the average, have raised 5 times as much as challengers. That is what the current system allows, since in over 90 percent of the cases the candidate that raises the most money wins, obviously the incumbents usually win. If you think you like a system under which the special interests, political action committees, give $10 to every sitting Member of Congress because they are already here with power and are on those key committees that effect their interest rates—$10 for every dollar they give to challengers, people with new ideas that want to break into the system, then vote against this bill, because you like the status quo, you like Congress on the auction block, you like the perception of the American people that the average citizen out there—that student, that teacher, that factory worker, that small business person, that farmer who cannot write $1,000 check, that perception they have that Congress no longer represents them because money is deciding American politics. If you believe that, then vote against this bill.

That is the issue. The American people are watching us; the American people are holding us accountable. As I have said day in and day out, how long are we going to wait? We have waited, we have watched. The confidence in the American people in this institution is down. This is their Congress, their institution; they own everything in this room—and they should. We have watched their confidence fall from 60 percent to 50 percent, and we waited on reform and saw it fall to 40 percent, and we waited on reform. Then we saw it fall to 30 percent and to 20 percent, and now it is down to 14 percent.

How long are we going to wait to give the American people back this institution? How long are we going to wait to take action that will cause the American people to say once again: We believe the Congress of the United States represents us. We believe the Congress of the United States cares about people like us. We want a system in which the Members running for election will not have to spend their time in New York, Miami, or Los Angeles, or Chicago, because that is where the money is. We will have a system where they can have the time to come back home and talk to us, the people who vote in the elections at the grassroots, the people to whom this Government should belong.

We have heard a smoke screen, a smokescreen: "Oh, this is going to cost," we heard in some debate, "a billion dollars every 2 years." The Congressional Budget Office says it is going to cost $168 million every 5 years; $168 million in 5 years versus $1 billion in 2 years. It is not surprising that these figures get confused. It is "close enough for Government work." Government is not very good on its estimates. It is just only about a tenfold error over 5 years.

We have had another argument: This is an entitlement for politicians. This is not an entitlement. This is an appropriated fund. This bill says if there is not enough money in the fund to pay any of the benefits to induce people to have spending limits, then the benefits are cut back proportionally. It is not an entitlement for any politics. It is an entitlement for the American people to take back their own Government. Nor is it a tax on the American people. We have had that argument. This is a tax to pay for politicians. Look at how the revenue is raised: By registration fees on lobbyists, on those who represent foreign governments, agents of foreign powers; registration fees on political action committees, and investment income on campaign committees.

That is not $1 of tax on the average American. It is a clean Government

fund to put the governmental power back in the hands of the American people.

The issue is this: Do you want to stop the money chase in American politics? Do you want to take Congress off the auction block? This is your chance. Let us not wait until there is not a solitary soul left in this country that no longer has confidence in this institution.

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

Mr. MCCAIN. Mr. President, after much soul searching I have come to the conclusion that I must vote against invoking cloture on the campaign finance reform bill. I believe that we must reform the campaign finance system. The money chase that occurs is obscene, and it must be stopped.

I wanted to be able to allow this bill to go to conference so that a good bill could be crafted. However, yesterday afternoon I was made aware of the fact that House Speaker FOLEY, Congressman GEPHARDT, Senator MITCHELL, Senator FORD, and Senator BOREN held a press conference to announce that a deal had been struck on campaign finance reform. They distributed to the press gathered there a four-page summary of the bill they had agreed upon. With this announcement my hopes and aspirations for meaningful campaign finance reform were dashed.

Mr. President, I ask unanimous consent that the document I referred to be inserted in the RECORD at this point.

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

CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1994

CONGRESSIONAL ELECTION SPENDING LIMITS

A system of voluntary flexible spending limits would be established for Senate and House campaigns. For candidates to the U.S. Senate, the spending limit would be based on state voting age population, ranging from a minimum of $1.2 million to a maximum of $5.5 million, for general election campaigns, indexed from calendar year 1996. The spending limit for primary elections would be 67% of the general election limit, up to a maximum primary limit of $2,750,000. For candidates to the U.S. House of Representatives, the spending limit would be $600,000 per two-year election cycle, indexed from calendar year 1992. The limit is increased $200,000 for candidates who win a contested primary with a margin of 20% or less, and for candidates forced into a runoff election.

BENEFITS FOR ELIGIBLE CONGRESSIONAL CANDIDATES

Candidates for the Senate who raise a threshold amount equal to 5% of the Senate general election spending limit and candidates for the House of Representatives who raise 10% of the House election cycle limit, in small individual contributions ($250 for Senate candidates and $100 for House candidates), and who voluntarily agree to abide by the spending limits would be eligible to receive certain defined benefits:

A. Voter Communication Vouchers: Eligible House candidates could receive vouchers on a matching basis equal to one-third of the spending limit ($200,000) to purchase broadcast and print advertisements, postage, and other voter contact materials.

B. Broadcast Discounts: Eligible Senate candidates would be permitted to purchase non-preemptible television broadcast time at one-half the lowest unit rate charged to commercial purchasers.

C. Low Cost Mail: Eligible Senate candidates would be permitted to send campaign mailings at the bulk rate for nonprofit organizations up to two pieces for each eligible voter.

D. Response to Independent Expenditures: Eligible House and Senate candidates could receive matching resources to respond to independent expenditures aggregating more than $10,000 from any one source during the general election period.

E. Contingent Public Financing: Eligible Senate candidates would receive additional public funding if an opposing non-participating candidate exceeds the spending limits.

FINANCING

The preliminary CBO estimate of the five year cost of the bill $168 million. No tax revenues collected from the general public could be used to fund the bill. The bill would be funded as follows: a voluntary tax checkoff, a reporting fee on PACs, registration fees on lobbyists and foreign agents, an increase in the marginal tax rate on candidate committee investment income, and the imposition of a tax on the excess expenditures of nonparticipating congressional candidates.

LIMITATIONS ON CONTRIBUTIONS FROM PACS AND INDIVIDUALS

The maximum allowable contribution from political committees to federal candidates would be reduced from $10,000 per election cycle to $6,000 per election cycle, with no more than $5,000 allowed for any one election.

Senate candidates would be limited to receiving aggregate PAC contributions aggregating no more than 20 percent of the election cycle spending limit, but not less than $375,000 nor more than $825,000. House candidates would be limited to receiving PAC contributions aggregating no more than ⅓ of the election spending limit, and individual contributions greater than $200 aggregating no more than one-third of the election spending limit.

LEADERSHIP PACS

Effective after the 1996 election cycle, all leadership PACs would be prohibited. In their place, each chamber's party leadership would be permitted to establish one committee to cover the cost of campaign travel and research expenses.

INDEPENDENT EXPENDITURES

Clarifies communications which are "express advocacy" and thus subject to federal election law—those which taken as a whole suggest support for or opposition to specific candidates or parties. Clarifies definition of independent expenditures to exclude expenditures by those who have communicated with or assisted candidates in the election cycle. Provides for enhanced reporting and disclosure requirements for persons who make independent expenditures aggregating more than $10,000 per candidate. Requires broadcasters to make offer of equal opportunity to participating candidates to respond to broadcast independent expenditures.

SOFT MONEY REFORMS

Prohibits national parties from soliciting or receiving any contributions not subject to the limitations, prohibitions and reporting requirements of the Federal Election Campaign Act (FECA), except for funds transferred to state parties and used solely for certain defined activities which do not affect federal candidates. Prohibits state parties from soliciting or receiving contributions not subject to the limitations, prohibitions and reporting requirements of FECA for any activity that identifies or promotes a federal candidate regardless if a state or local candidate is also identified (including GOTV during a Presidential election year, voter registration, any other generic activity).

Authorizes state parties to establish State Party "Grassroots Funds" for generic campaign activities, GOTV on behalf of the presidential candidates, and voter registration. The amounts raised and spent by State Party "Grassroots Funds" would have to comply with the contribution limitations and prohibitions of FECA.

The bill would increase the allowable amount an individual may contribute to candidates, political parties, and political committees from the current $25,000 per year to $60,000 per election cycle.

Prohibits federal candidates and officeholders from soliciting and receiving contributions not subject to limitations and prohibitions of FECA.

Requires corporations and membership organizations to promptly disclose to the FEC partisan communications and nonpartisan get-out-the-vote campaigns directed at their shareholders and members.

RESTRICTIONS ON BUNDLING

Bundling in excess of the contribution limits would be prohibited to all party committees; political committees connected to a trade association, corporation or labor organization; lobbyists, and individuals acting on behalf of corporations, labor unions, or trade associations. Nonconnected political committees which do not lobby and have no affiliation with any organization that lobbies would not be covered by the rule.

PROHIBITS CONTRIBUTIONS FROM MINORS

Prohibits contributions from dependents who have not attained the legal age for voting for federal elections.

CAMPAIGN ADVERTISING

A. Lowest Unit Rate: All federal candidates would be entitled to purchase non-preemptible broadcast time at the lowest unit rate charged to commercial broadcasters during the 30 days before a primary election and during the 45 days prior to a general election. Eligible Senate candidates would be permitted to purchase broadcast time at half the lowest unit rate during the 30 days before a primary and during the 60 days prior to a general election.

B. Candidate Accountability: An image of the candidate will be required to appear in broadcast campaign advertisements with an audio statement by the candidate identifying the candidate and stating that the candidate has approved of the communication.

RESTRICTIONS ON THE USE OF CAMPAIGN FUNDS FOR PERSONAL USE

Present and former candidates would be prohibited from using campaign funds for any use which confers a personal benefit.

RESTRICTIONS ON THE USE OF THE CONGRESSIONAL FRANK

Prohibits Senate members and House members who become a candidate for the Senate, from mailing franked mass mail during the federal election calendar year.

FEC REFORM AND REPORTING REQUIREMENTS

Enforcement of the law would be strengthened by a number of changes to current law, including an increase in penalties for violation of the law, improved reporting requirements, random audits, authority for the FEC

to seek injunctions in court for violations of the law, and expedited procedures to dispose of cases.

PRESIDENTIAL SYSTEM

The Presidential system would be simplified by removing the state by state primary limits and the separate fundraising limits. The threshold to qualify for primary matching payments would be increased from the requirement that $5,000 be raised in 20 states, to the requirement that $15,000 be raised in 26 states. Persons who have been convicted of violating the presidential system campaign financing rules would be prohibited from receiving any public financing.

EFFECTIVE DATE

The provisions of this bill would be effective for federal election activities occurring after January 1, 1995.

Mr. McCAIN. Mr. President, this document is clear evidence that there is regrettably no reason for us to convene a conference because the deals have already been made—a deal that falls far short of the reforms we must make and that the American people deserve.

Early last year, I declared on the floor a set of principles that I believed and continue to believe must be contained in any campaign reform bill. I then outlined those principles in letters to all concerned parties.

I ask unanimous consent that a copy of that letter appear in the RECORD.

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

U.S. SENATE,
Washington, DC, May 6, 1993.

Hon. ROBERT DOLE,
Office of the Republican Leader,
Washington, DC.

DEAR BOB: We are writing to inform you of several key principles that will be guiding our decisions when Campaign Finance Reform comes to the Senate floor.

We are optimistic that campaign finance reform can become law this year. We believe that this reform must be bipartisan and must not favor one party over the other.

At the outset, we would like to emphasize that there are significant areas of common ground in both S. 3 and S. 7, the Democratic and the Republican campaign finance reform bills. For example, both proposals would prohibit bundling by special interest groups and would require disclosure of independent expenditures. Congress should not hesitate to adopt proposals that are clearly bipartisan, broadly supported reform goals.

Each of us is committed to other campaign finance reform principles that are not included in this letter or go further than those listed in this letter, but that we individually believe are essential elements of reform. The following is a list of core principles that we have in common that we believe will constitute meaningful campaign finance reform?

1. Politician Action Committee (PAC) contributions should be subject to further limitation. PAC contribution limits should be no higher than individual contribution limits, so that PACs have no more of a financial advantage than the average citizen. In addition, we should pursue aggressive aggregate limits.

2. The House and Senate must play by the same rules. If certain kinds of campaign practices are unacceptable for one body, they shouldn't be permitted in the other.

3. Disclose all soft money, not just party soft money. It doesn't make sense to selectively target political party soft money but ignore the soft money that pours into elections from tax-exempt special interests. Sunshine is still one of the best disinfectants.

4. In-state contributions should be favored over out-of-state contributions. The individual limit for out-of-state contributions should be lowered from $1000 to $500. Candidates should receive most of their financial support inside their state, from the citizens they seek to represent.

5. Severability. If one provision of the campaign finance reform package is struck down as unconstitutional, the rest of the reforms should survive intact.

6. Campaign fundraising should be limited to the actual election cycle. Candidates who are not in an election cycle should be able to raise funds only from their constituents.

7. Campaign committees should not pay back loans that candidates make to their own campaigns. We need to address the unfair advantage of millionaires who are able to bankroll their own campaigns.

8. Avoid taxpayer financing of campaigns. At a time when the federal government is calling on Americans to make sacrifices to reduce the deficit, Congress shouldn't create a new entitlement program for politicians. We are not opposed to spending limits, but it might not be necessary to swallow the bitter pill of taxpayer financing to get them. Now is the time for creative proposals that test the boundaries of Buckley v. Valeo and provide for voluntary spending limits without dipping into the federal treasury.

9. Any bill that provides for public financing must be paid for. The bill presented to the Senate must clearly incorporate the method for offsetting the cost, and this method must not increase the deficit. In addition, if public financing is available during general elections, it must be available during primaries to give a fair shake to challengers.

We have taken the responsibility of crafting reform principles very seriously, since campaign finance reform is actually incumbents writing the rules for their own reelection. We believe that campaign finance reform should be meaningful, and it must also be bipartisan. We hope that our efforts will help to build the consensus that will be necessary to enact campaign finance reform this year.

Sincerely,

DAVE DURENBERGER.
JOHN H. CHAFEE.
WILLIAM S. COHEN.
JOHN MCCAIN.
JAMES M. JEFFORDS.

Mr. McCAIN. I have fought for those basic principles believing that they reflect the real reform Americans want. However, the deal that was agreed upon by the Democratic leaders in the House and Senate did not meet these core principles.

First, last year, the Senate voted 86–11 to ban PAC's—including leadership PAC's. The public believes—rightly so that PAC's must be eliminated.

However, under the Democratic deal, PAC's would not be eliminated, or even greatly reduced. Instead, PAC contributions would be limited to $6,000 per election cycle. Additionally, leadership PAC's would not be banned until the end of 1996, and Emily's List and other nonpolitical, nonconnected PACs that do not lobby may continue to bundle campaign contributions.

Second, principle No. 8 stipulated that we should avoid taxpayer financing and "shouldn't create a new entitlement program for politicians." Point 9 stipulates that the bill must "clearly incorporate the methods for offsetting the cost" and "if public financing is available during general elections, it must be available during primaries * * *."

Again, the deal announced falls short on this point. Reality tells us that no one is going to add $10 to their tax bill for congressional campaigns. Additionally, the other taxes mandated in this bill to pay for congressional and Senate races de facto force our constituents to pay for our campaign. That is wrong, and I cannot support these new taxes.

The second principle stipulates: "The House and Senate must play by the same rules. If certain kinds of campaign practices are unacceptable for one body, they shouldn't be permitted in the other." As we all know, under current law, both House and Senate campaign operate under exactly the same rules.

However, the deal presented yesterday, contains different rules for House and Senate candidates on: First, aggregate PAC contribution limits; second, matching funds for House candidates only; third, different limits on large contributions for House and Senate candidates; fourth, different rules for House and Senate candidates if a House candidate wins the primary in a close election; fifth, use of broadcast vouchers, and sixth, election-year franking restrictions for Senate candidates only.

Mr. President, there is simply no reason for the House and Senate to live by different rules. Differing rules will only result in increased litigation and electoral confusion.

Point 7 stipulates that campaigns should not be allowed to pay back personal loans made by candidates. The Senate-passed bill banned post-election paybacks of candidate loans.

The sponsors of the pending bill, however, now state that disallowing payback of loans violates the ability of someone to contribute. This is simply not true. A candidate could still contribute as much as he or she wants. However, they would not be allowed to be reimbursed. This is not a prohibition on free speech. This is the same as the "personal use" restriction: if you can't reimburse yourself for cars and clothes, you shouldn't be able to reimburse loans. This is a wide-open loophole to circumvent the personal use prohibition, favoring the wealthy.

Mr. President, I wish we had been able to pass campaign finance reform. We have been debating this issue for too long and the public is growing weary of inability to reform the system. They are right to feel that way.

But the public does not want us to pass sham campaign finance reform,

and that is unfortunately what has been presented to us today. I have fought for good campaign finance reform. I will redouble my efforts in the future. When we return next year, we must do what is right and pass real campaign finance reform. If we do not attempt to do so, then the public will reform the system by sending new representatives to Washington. And they will be right in doing so.

Mrs. KASSEBAUM. Mr. President, as one who has long supported a complete overhaul of our campaign finance laws, I am disappointed that this effort once again has failed. However, despite significant progress in some areas, it is clear that we cannot and should not attempt to force this effort through the Congress in the final days of this session.

That is why I have voted today against sending this issue to a House-Senate conference. In fact, a conference has effectively already been held by the Democratic leadership, and it is clear their legislation is what would be returned to the Senate after a token meeting.

The agreement, which has been widely reported in the press, was reached among the House and Senate Democratic leadership is not acceptable reform of our campaign finance laws. I could not support it now or later for several reasons.

First, it fails to effectively reduce the role of special interest money in our campaigns. As I understand the Democratic plan, the maximum contribution from political action committees, the so-called PAC's, would be reduced from a total of $10,000 to $6,000. This compares with the elimination of PAC contributions in the Senate bill, which I supported, or, if that were found to be unconstitutional, a maximum limit of $2,000, which is the limit I have applied in all of my Senate campaigns.

As all of us know, PAC contributions have been the key sticking point in the negotiations that occurred among the Democratic leadership. The House insisted on retaining the current $10,000 limit and only reluctantly agreed to the proposed reduction to $6,000. I note, however, that the outline I have been given indicated that PAC's still would be allowed to give up to $5,000 in general elections—exactly as they can under current law, if they give only $1,000 in the primary election.

A second fundamental problem is that the proposed Democratic plan sets up different campaign finance systems for the House and the Senate. House candidates would be eligible for partial public financing of their campaigns, while Senate candidates would be eligible for reduced broadcast rates and low-cost mailings, with a backup system of public financing in certain cases.

Incumbent Senators and incumbent House Members running for the Senate would be prohibited from using franked mailings during an election year—but House incumbents running for reelection to the House would still be able to send out mass mailings at the taxpayers' expense.

Mr. President, there are other serious problems with this proposal that bother me deeply. One is that new restrictions are imposed on so-called bundling of campaign contributions, but a special exception is then included for groups such as Emily's List.

There are good features in the proposal, but all of the fine-tuning that has occurred in the negotiations among Democrats has carried this plan further and further toward protecting incumbents rather than effectively reforming our campaign finance laws. For that reason, I have concluded that it is time to terminate this effort for now. It is my hope that we can and will try again in the new Congress, when we may be able to shape a plan that is genuinely bipartisan and makes real, substantive changes in the way we finance our campaigns.

THE MYTH CALLED CAMPAIGN FINANCE REFORM

Mr. CHAFEE. Mr. President, for years the public has complained, understandably, that political campaigns cost too much, last too long, and are financed by too much special interest money. Last year, several of us demonstrated our willingness to set aside partisanship in an effort to address these concerns. We were hopeful that the House of Representatives would put aside self interests to enact reforms which strengthen, rather than weaken, legislation approved this summer by the Senate.

The compromise reform package that was agreed upon in the Senate provided for a system of voluntary spending limits to cap expenditures at reasonable levels. The current system of unrestrained campaign spending benefits incumbents in almost every instance and inhibits electoral competition far more than would reasonable spending limits. In some races, the task of raising as much money as is available to the incumbent is so daunting that credible challengers cannot be found.

The Senate-passed bill limited the influence of special interest money. To ensure the primacy of individual citizens in the political process, political action committee contributions to federal candidates were prohibited, soft money gifts and expenditures by business and labor were restricted, and the bundling loophole was closed.

In an effort to curb the amount of time that is spent on fundraising, contributions to Senate candidates from out-of-State donors were prohibited, except during the 2 years before the election. To reduce further the advantage of incumbency, publicly financed election year mass mailings by Members of Congress seeking reelection were eliminated. Important at a time of staggering Federal deficits, the Senate approved system of campaign finance reform was self financing.

Unfortunately, Democratic leaders in the House of Representatives crafted legislation which ignored the underlying Senate bill and efforts toward real political reform.

Rather than limit campaign spending to promote political competition, the House legislation would have permitted incumbent representatives to raise and spend sums approaching $1 million in each 2-year period. Rather than limit taxpayer-financed mass mailings, ban soft money and address the problem of bundling, the measure proposed minor changes or maintained the status quo.

Rather then moving dramatically away from candidate reliance on PAC's, the proposed House bill did virtually nothing to create a system in which candidates would require the support, both financial and electoral, of those they seek to represent.

Under the House bill, House incumbents would be able to raise $200,000 in chunks of $5,000 from PAC's, who overwhelmingly contribute to incumbents over challengers. With a superior fundraising apparatus, incumbents would easily raise the $200,000 in other contributions that would qualify them for another $200,000 in taxpayer dollars. All the while, they would be able to communicate with voters in their district through mass mailings at the taxpayer's expense. This kind of reform would leave challengers in the dust.

During the last Congress, the House and Senate easily approved campaign finance reform legislation that had no possibility of becoming law. President Bush was sure to veto it, and he did.

This year we had the opportunity to begin restoring public confidence in Congress. We had the chance to enact campaign finance reform legislation that would address the key problems that have discredited our current system. I supported efforts to bring the House and Senate bills to conference with the hope that the Senate bill would prevail.

Yesterday, we learned that the Democratic leadership had reached an agreement on what would be included in a conference report, and that agreement was far from the reform that I had hoped for. When he introduced the administration's plan for campaign fiance reform legislation, President Clinton said he wanted to make sure that "the voice of the people is heard over the voice of the special interests." But if the Democratic compromise had been agreed to, the voice of the people would have been little more than a whisper compared with that of special interests.

The so-called compromise would have permitted PAC's to contribute up to $6,000 per candidate for Federal office. Some might say that's a good start, down from $10,000. According to an article that appeared in the Washington

Post on June 13, 1994, "The average PAC donation to a candidate in the 1992 elections was only about $1,600, according to an analysis of Federal Election Commission records. The median donation was $1,000, and the most common donation was $500." In other words, reducing the PAC limit to $6,000 would have absolutely no effect on reducing special interest influence on the election process.

The Senate has made great strides in eliminating the incumbent advantage provided by the frank. The Senate-passed bill included my amendment to prohibit unsolicited, franked mass mailings during a Senator's election year, and the legislative branch appropriations bill for fiscal year 1995 eliminates the use of the frank for all unsolicited, mass mailings other than town meeting notices. The Democratic leadership's compromise did nothing to end excessive election year franking in the House. An editorial that appeared in Roll Call on September 22, indicated that "Use of the frank by House Members surged by 33 percent in the first half of 1994 over 1993, obviously because this is an election year." The editorial went on to say that "Members facing tough reelection races or trying to move on to a new office do so by sending out gobs of free mail." Certainly, we should be able to erase this blatant incumbent advantage.

I hope that when we address this troubling issue in the next Congress, the House will be more forthright in its efforts.

Mr. McCONNELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky [Mr. MCCONNELL] is recognized.

Mr. McCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 44 seconds remaining.

Mr. McCONNELL. Madam President, I take this opportunity to thank my staff, and particularly Steven Law, my chief of staff, who has done an absolutely brilliant job on this issue over the last 6 or 7 years and Tamara Somerville, whose outstanding work and good sense of humor has contributed mightily on this side.

I also thank Bob Peck and the American Civil Liberties Union, who has been a very important part of our debate on this from the beginning; and my secretary, Susan Oursler, who has done spectacular job of scheduling Senators last week, and all Republican Senators who spoke during the extended discussion of taxpayer funding of elections.

I also thank staff members Valerie Wilson, Scott Douglas, and Chip Begley, who have done a great job with the support work this effort entailed these last few weeks.

The ACTING PRESIDENT pro tempore. All time has expired.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to request a conference with the House on the disagreeing votes of the two Houses with respect to S. 3, the Campaign Finance Reform Act:

David Boren, Wendell Ford, Dennis DeConcini, Patrick Leahy, Harris Wofford, Chris Dodd, Carl Levin, Paul Wellstone, John F. Kerry, Barbara Boxer, Bob Graham, Tom Daschle, David Pryor, Byron L. Dorgan, Joe Biden, Herb Kohl.

VOTE

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to request a conference with the House on the disagreeing votes of the two Houses relative to S. 3, the campaign finance reform bill, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from Oklahoma [Mr. NICKLES] are necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—52

Akaka	Feingold	Mitchell
Baucus	Feinstein	Moseley-Braun
Biden	Ford	Moynihan
Bingaman	Glenn	Murray
Boren	Graham	Nunn
Boxer	Harkin	Pell
Bradley	Hollings	Pryor
Breaux	Inouye	Reid
Bryan	Jeffords	Riegle
Bumpers	Kennedy	Robb
Byrd	Kerry	Rockefeller
Chafee	Kohl	Sarbanes
Conrad	Lautenberg	Sasser
Daschle	Leahy	Simon
DeConcini	Levin	Wellstone
Dodd	Lieberman	Wofford
Dorgan	Metzenbaum	
Exon	Mikulski	

NAYS—46

Bond	Faircloth	Lott
Brown	Gorton	Lugar
Burns	Gramm	Mack
Campbell	Grassley	Mathews
Coats	Gregg	McCain
Cochran	Hatch	McConnell
Cohen	Hatfield	Murkowski
Coverdell	Heflin	Packwood
Craig	Helms	Pressler
D'Amato	Hutchison	Roth
Danforth	Johnston	Shelby
Dole	Kassebaum	Simpson
Domenici	Kempthorne	Smith
Durenberger	Kerrey	Specter
Stevens	Wallop	
Thurmond	Warner	

NOT VOTING—2

Bennett Nickles

The ACTING PRESIDENT pro tempore. On this question, the yeas are 52, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Madam President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

The Senate will be in order.

CAMPAIGN FINANCE REFORM

Mr. DOLE. Madam President, like so much we do around here, you will not know anything about a proposal unless you look beyond the label and read the fine print.

Everyone is for health care reform, until you find out that reform means a Government takeover of the best health care delivery system in the world. Everyone wants to support a crime bill, until you find out that it actually coddles criminals and wastes billions and billions of taxpayer dollars on misguided social-welfare programs. And, I suspect, most people would support legislation advertised as campaign finance reform, unless they took a moment to look behind the label and examine what reform actually means.

Mr. DOMENICI. May we have order, Madam President?

Mr. WELLSTONE. Could we have order?

The ACTING PRESIDENT pro tempore. The Republican leader will withhold. The Senate will be in order.

TAXPAYER FINANCING OF CAMPAIGNS

Mr. DOLE. For starters, reform apparently means a new entitlement program. Not for the needy. Not for the working poor. Not even for the middle class. But for politicians.

Under the so-called campaign reform compromise unveiled yesterday, each House candidate would have been eligible to receive up to $200,000 in taxpayer funds. When the smoke finally cleared after each election cycle, the total taxpayer-payout could have amounted to hundreds of millions of dollars.

So, as public approval of Congress sinks to an all-time low, our first instinct is not to change our own behavior, but to look to the taxpayers themselves as the funding source for our

own political campaigns: more money for politicians. Less money for the American people. That is what is known in Washington as a reform proposal.

Republicans are proud to stand with the taxpayers and against the public-financing of congressional campaigns. We opposed this taxpayer hand-out, and we are proud to have done so.

SPENDING LIMITS

My colleagues on the other side of the aisle constantly remind us that we spend too much on campaign advertising, which is another way of saying that we spend too much on political speech.

Mr. BYRD. Madam President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Republican leader will withhold. Will all Senators please take their conversations to the Cloakroom.

Mr. DOLE. I thank the distinguished Senator.

Mr. BYRD. Madam President, there is still not order in the Senate.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Republican leader is recognized.

Mr. BYRD. I may not agree with what the Republican leader is saying, but he is entitled to be heard.

Mr. DOLE. I thank the Senator from West Virginia.

Mr. BYRD. I am not sure the Senator from West Virginia is finished. There is not enough order in the Senate.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. As a result, they have proposed placing an overall cap on the amount a campaign may spend in any election cycle. This cap is called a spending limit.

But if we spend too much on politics, what should be our spending priorities? Instead of politics, should we spend more money on hamburgers? On cars? On video games? On vacations?

Is participating in politics by making a voluntary campaign contribution to a candidate of your own choosing really such a bad thing?

Expert after expert has testified that spending limits not only reduce political speech, they also make it much more difficult for challengers to mount successful campaigns against entrenched incumbents who enjoy huge advantages: High name recognition. The franking privilege. Large staffs. And easy access to the media.

Inflexible spending limits, in other words, are anticompetitive and pro-incumbent.

Of course, the Supreme Court has held that spending limits are constitutional if they are voluntary. But as my distinguished colleague from Missouri, Senator DANFORTH, pointed out last week, there is nothing voluntary about the so-called speech tax that would have been imposed on candidates who did not abide by the limits. The speech tax is a club, a way to beat candidates into submission so that they will have no other choice but to accept the spending limit. The biggest winners, of course, are the incumbents. And the biggest loser is the Constitution of the United States.

As Roll Call magazine pointed out last year,

> The version of campaign finance reform passed by the Senate * * * is a miserable piece of legislation. Its key provision—the spending limit—is outrageously unconstitutional. Why would Senators pass a bill that so blatantly restricts the right of free political speech, as the Supreme Court clearly defined in Buckley versus Valeo? Partly, to rescue themselves from the political liability of failing to pass a campaign bill but, more importantly, to keep their own seats warm and secure.

And let me just say that I do not blame my colleagues on the other side of the aisle for stacking the deck in their own favor. They control Congress now, and they want to continue to control Congress next year, and the following year, and into the next century. After all it's only human nature to try to hold on to what you do not want to give up, and, in all candor, if Republicans controlled Congress, we would probably be doing the same thing—bringing a bill out here that favors us. That is the way it works. And it does not take a rocket scientist to know you cannot tell anybody otherwise. Nobody is going to convince people who understand this that when one party has a majority they are not going to try to preserve that majority and write legislation and pass legislation that certainly helps them preserve that majority.

That is why the distinguished majority leader and I asked a bipartisan group of experts to come up with campaign finance reform. It is my view, whether Democrats or Republicans control the Congress, we are not going to have real campaign reform until we have some outside, nonpartisan, objective group take a look at it.

If we are going to look at it from the perspective of how we are going to protect Republicans or how we are going to protect Democrats, as long as that is the problem, it seems to me we are not going to get very far.

We all know that PAC's love incumbents. In 1992, in races where Members of Congress were up for reelection, incumbents received a staggering 86 percent of the PAC contributions—86 percent. That is $126 million for incumbents versus a paltry $21 million for challengers.

At the urging of Republicans, including my colleague from South Dakota, Senator PRESSLER, the Senate passed a bill last year that banned PAC's outright. No PAC's; no exceptions. That was a step in the right direction, a step that should have been taken by the House of Representatives.

We had a strange mix in this so-called compromise where the Senate had one set of rules and the House had another set of rules. It seems to me it just does not add up. I want to particularly congratulate my colleague from Kentucky, Senator MCCONNELL. He understands this probably as well or better than anybody in this body or anybody in this town. He spent a lot of time on it. He has worked day and night on it because he believes, and he truly believes, that this is bad legislation.

It seems to me when all this is done behind closed doors, and Republicans are never consulted—we are always the ones that are charged with gridlock, obstruction and everything else—my view is that maybe this is one case where it was a good idea. I think the taxpayers will agree by about a 70 percent margin that public financing is bad.

So for all the reasons I can think of, it seems to me the Senate has taken appropriate action, and maybe next year we will find some way of not being shut out of the process, not being shut out of meetings, not being shut out of negotiations.

I do not think any of the seven Senators who wrote me a letter saying, if you do certain things, we will vote for the bill, I am not certain any of them were consulted. I checked with a couple. They never were consulted. They were supposed to be key to this process. They listed seven or nine principles that, if they were followed in the process, they would vote for cloture.

As I looked at it yesterday and reviewed it, five of the seven were largely ignored. I do not believe any of the seven Members on our side were consulted in an effort to work it out. At least the ones I talked to had not been.

And so I will also say to Senator BOREN, certainly he was committed, convinced, felt strongly about this. I do not have any quarrel with his efforts, except I think in this case he was not able to persuade the House to go along. I think if maybe Senator BOREN and others on his side might have had their way, it would have been a much better bill.

Senator MCCONNELL has brought intelligence to this debate. He is an expert. As far as I am concerned, there is no one in the United States today who can match his command of this complex subject. As I said before, I certainly extend my congratulations to Senator MCCONNELL for his outstanding effort.

Madam President, when I hear some of my colleagues on the other side of the aisle complain that Republicans have somehow blocked campaign reform, I know it is time for a little history lesson.

The Senate passed a bill more than a year ago, in June 1993. The House soon followed suit, passing its own version

of campaign finance reform in November 1993. And, now, 10 months later, we have finally gotten around to working out the differences.

It is not Republicans who have blocked campaign reform, it is my colleagues on the other side of the aisle. They are the ones who have been meeting behind closed doors. And they are the ones who waited until just yesterday to reach an agreement among themselves.

Yes, restoring the credibility of Congress is critical.

Yes, campaign reform is essential if we are to win back the confidence of the American people.

And yes, Republicans want reform. That is why we introduced a bill at the beginning of this Congress, S.7—that would have banned PAC's, provided seed money for challengers, prohibited soft-money contributions, and required candidates to receive most of their contributions from their own constituents.

Unfortunately, S.7 was never treated seriously by our Democrat colleagues. From day one, Republicans have been shut out of the process. No meetings. No negotiations. It has been take it or leave it—the Democrat plan or no plan at all.

And that is why campaign finance reform failed again this year: For when all is said and done, the American people do not want a political document. They want a document they can trust—one that enjoys bipartisan—and nonpartisan support.

A few years ago, Senator MITCHELL and I tried the bipartisan approach when we appointed a six-member commission of outside experts to look at the campaign finance issue and report back to us with a package of recommendations. I thought many of these recommendations made some sense, but as it turned out, the report was largely ignored.

In the future, convening a nonpartisan—or bipartisan—panel of outside experts may be the only way to break the logjam and craft rules that are equally fair—and equally unfair—to both parties. If recent history teaches us anything, it teaches us that the temptation to use the campaign laws to extract partisan advantage is perhaps too great to leave Congress to its own devices.

Mr. BOREN addressed the Chair.

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

Mr. MITCHELL addressed the Chair.

Mr. BOREN. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, I have the greatest respect for the distinguished Republican leader, but I take very strong exception to the statement he just made. The bill described by the distinguished Republican leader and by his colleagues during the debate is not the bill that the Senate voted on. This has been a classic campaign of misinformation, opposing a bill that was not before the Senate, so as to obscure the issue.

The fact of the matter is that Senate Republicans have just gone on record as favoring a continuation of the current discredited system of campaign finance reform, which has the effect of undermining public trust and confidence in the legislative process.

Public opinion poll after public opinion poll shows that an overwhelming majority of Americans believe, unfortunately, in my view, but in reality believe that the Members of this Senate are responsive to the money interests who finance their campaign. And this system perpetuates that belief. Every Member of this Senate knows of the never-ending chase for money in which Senators engage on a regular basis, day in, day out, month in, month out, year in, year out. Every Senator knows that this system demeans the Members of the Senate, as it does those who contribute, as it does the American people and as it does democracy itself. To go around with your hand out to people day after day after day begging for money demeans the individual, demeans the process and corrodes the public trust and confidence in democracy itself.

Our Republican colleagues said today, let us keep this system. Mr. President, that is what is at stake here. All of the arguments about taxpayer money; not a penny—not one penny—of general taxpayers' funds will be used under this bill, and the statements to the contrary are untrue.

My distinguished friend and colleague from Oklahoma, who is the principal author of the bill and who I commend for his efforts in this, will describe the bill in more detail in a moment, and I ask him to pay particular attention to that.

But it is simply not true. This is a system which will be financed by voluntary payments by those taxpayers who choose to do so under a voluntary checkoff system which has existed for a long time. And the spectacular irony of Republican Senators constantly complaining about taxpayer funds when Republican after Republican has run for President and received hundreds of millions of dollars in taxpayers' funds in what is plainly and obviously a taxpayer-financed system. The largest recipients of public funding for elections in our Nation's history have been Republican candidates for President.

In the 1970's, our Nation was shocked when the corrupt system of financing elections for President was exposed in full view as a consequence of the Watergate scandal. Americans learned that the highest officials in the country were affected by a system in which suitcases full of cash were carried into high public office, and members of the President's Cabinet were involved in shakedowns of cash from people who did business with the Government, and they revolted against that system and instituted for the election of the President a taxpayer-financed system.

Our colleagues can rail all they want against taxpayer financing, but would they like to go back to the day when the President of the United States and the Vice President of the United States and Cabinet Members were going around the country shaking people down for cash to seek the highest office in the land and the most powerful office in the world? And yet if it is good enough to elect Presidents, why is it not good enough to elect Senators and Members of Congress?

The fact of the matter is, Mr. President, every Senator knows this system stinks. Every Senator who participates in it knows this system stinks. And the American people are right when they mistrust this system, where what matters most in seeking public office is not integrity, not ability, not judgment, not reason, not responsibility, not experience, not intelligence, but money. We could have a candidate of the highest integrity, the highest intelligence, the most vast experience who can be overwhelmed by a tide of money by someone who has none of them. Money dominates this system. Money infuses the system. Money is the system. And our colleagues to score a few political points keep raising this argument about taxpayer money, which is not even true, even as they accept taxpayer money.

Mr. President, Members of the Senate, several of us are leaving. I will speak only for myself, but I believe it is true of everyone who is leaving. Others can speak for themselves. I will miss a great deal of the Senate. I will miss all of my colleagues on both sides of the aisle, friends of many years, people with whom I have worked closely. But I wish to say here and now, one thing I will not miss is the never-ending money chase in which we have all had to be engaged. Every single Senator knows deep within his heart and soul and mind exactly what I am talking about.

We had a chance here to do something about it. It was not—I repeat, it was not—a system intended to favor one party. It was a system to level the playing field between incumbents and challengers, to create a fair opportunity for competition, and that really is essentially the basis of the opposition. This is a case of incumbents protecting themselves, not wanting to give challengers a fair chance, wanting to accept the overwhelming advantages of incumbency.

Of course, in this election we are seeing there are other offsetting disadvantages of incumbency, and so the tendency is to rack up even more money, to exploit even more fully the advantage so as to offset those disadvantages.

I am very deeply disappointed, Mr. President, at this result—very deeply disappointed. I am disappointed not just in those of our Republican colleagues who overwhelmingly voted against it—92 percent of them voted against it, while 90 percent of Democrats voted for it. I am disappointed in those Democrats who chose to vote against this measure on what I believe to be sorely mistaken and inadequate grounds. But the fact is that 90 percent of Democrats voted for it, 92 percent of Republicans voted against it. So it is very clear who favored it and who killed it. It is a very regrettable result.

This is, I believe, just a temporary setback. I think it is inevitable that there are going to be changes in this system, and I hope very much that those who remain and who have fought this battle so vigorously and with so much energy and effort over many years will continue the effort to create a situation where the American people can look at the Members of the Senate with pride and not with the embarrassment and the shame that so many feel now when they see this corrupting and corrosive system that exists, corrupting of the public trust in the Senate.

The fact is I believe that the overwhelming majority of Members of the Senate are men and women of integrity. They are not adversely influenced, as many believe. But the impression is there, and the impression is so deeply held and so strongly fed by the system and by the reports of it, that it is inevitable that it must change because I think public attitudes are going to get worse and worse and worse.

It is an irony, it is a huge and spectacular irony, that those who are opposed to changing this system in a way that will restore public trust are themselves seeking to become the beneficiaries of that public mistrust. The very people who want to keep this system which brings the institution of Congress into such disrepute are trying to be the beneficiaries of that disrepute—tear down the institution so that we can inherit the rubble.

That is what is happening here, and it is a very sad and tragic day for the Senate and for those who remain in the Senate. But I hope very much that our colleagues will persevere, that in time the American people will rise up in indignation and demand that this system be changed.

I want to conclude by saying one word, finally. No matter how many times our colleagues say it, this is not a taxpayer-financed system. This system is financed by voluntary participation by taxpayers. No general taxpayer will be forced to pay anything to fund this system. The distinguished chairman, the Senator from Oklahoma, the author of this bill, will describe it in a little more detail I hope. But I just want to make sure every American understands that, that these statements made to the contrary are simply not true.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BYRD. Will the Senator from Oklahoma yield to the President pro tempore?

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BOREN. Yes, I yield.

Mr. BYRD. Mr. President, I will be very brief. I know others have been standing on their feet.

Mr. President, when Cineas was sent to Rome by Pyrrhus, the king of Epirus, laden with gifts to buy the Senators and Senators' wives, Cineas returned following his mission and reported to Pyrrhus that he had witnessed the Senate of Rome and that it was veritably "an assemblage of kings." This was in 280 B.C. There were no takers of his gifts.

About 170 years later, Gaius Sallustius Crispus, a Roman historian who lived between the years 86 and 34 B.C., wrote about the conspiracy of Catiline and also about the Jugurthine war which occurred between the years 112 and 105 B.C. Sallustius writes that when the Roman Senate ordered Jugurtha to leave Italy and to return to Africa, Jugurtha passed through the gates of Rome and looked back at the city several times in silence, and finally exclaimed: "Yonder is a city put up for sale, and its days are numbered if it finds a buyer."

What a sad commentary upon Rome and the Roman Senate which had so changed after 170 years.

The same commentary can very well be said about this city.

I am sorry to say it can also be said with respect to this institution. It is like property owned by the special interests. They hold title in fee simple to it—a title that is vested in special interests.

Eight times, I tried to get cloture on campaign finance reform legislation when I was majority leader during the years 1987 and 1988. There were more cloture motions against that legislation at that time than ever were filed before or since, and I failed eight times to get cloture. And the current majority leader has tried many times, and he has failed.

Mr. President, until the American people understand that campaign finance reform is more important than any other reform and until, as the majority leader stated, they rise up in indignation and say they have had enough, then this institution will continue to be the property of the special interests. We all know it. And it is too bad that the American people just don't get it and realize it to be the case. They are the real losers.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the Chair.

It is clear that the effort for campaign finance reform this year is over. I would announce to my colleagues that we will make no effort to lodge another cloture motion in order to try to bring this bill to conference. I think it is a sad day for the political system.

This Congress was sent here by the American people to be the reform Congress. Throughout the last election, there was much discussion of reform. There were many pledges by Members of Congress on both sides of the Capitol and on both sides of the aisle that this would be the reform Congress. Now we run the risk that this Congress will adjourn, being known as the no reforms Congress except for a few largely cosmetic actions that do not affect the basic functioning of the political process.

We may pass a bill with provisions that prohibit us from taking gifts over minimal amounts. We have failed to pass a bill now that would affect the millions and hundreds of millions of dollars that flow into the political process that give the American people the impression that Congress is on the auction block because our politics will be dominated, as the majority leader said so well, not by quality of the candidates, not by the abilities of the candidates, but by which candidate is most successful in raising campaign funds.

It is a disappointment to me after 11 years of working on this legislation that we have come to this point. There have been many who have labored long and hard on both sides of the aisle to make this a reality, to bring about this change, including former Senator Goldwater and former Senator Stennis, who was the original author with me of the bill 11 years ago; including the President pro tempore, who just spoke a moment ago, who attempted through cloture votes to pass this legislation previously; including the majority leader, who will be retiring at the end of this session, who has fought valiantly for this effort in the course of the term of his leadership of this institution.

I see also on his feet the Senator from Vermont, Senator JEFFORDS, who I would say to my colleagues has been stalwart in this effort for campaign finance reform.

It has been an effort by concerned individuals on both sides of the aisle to bring about change. Today, we see this bill the victim of what I would call buzz word politics. If we say the right buzz words long enough and loud enough, perhaps you can succeed. We have heard all the buzz words here. We have heard the buzz words taxpayer financing. We have even heard that we

were trying to pick the pockets of the American taxpayers to pay for campaign finance reform.

Mr. President, as the majority leader has said, not one single dollar of general taxpayer financing is in this bill. Not one single average American taxpayer is being asked to pay one single extra dollar in taxes to pay for cleaning up the political system.

Where does the money in the trust fund come from that would be used to induce candidates to accept spending limits? It comes, one, from voluntary contributions, absolutely voluntary contributions, if citizens want to add an additional contribution to their tax returns. It comes from additional charges on lobbyists, additional registration charges on lobbyists who try to seek to influence, who are paid to seek to influence legislation. It comes from higher registration fees on those who are agents of foreign powers, those who come here trying to represent the other interests of other countries, including the economic interests of other countries, to try to influence the Congress of the United States. It comes with increased reporting charges on political action committees, PAC's, that are usually formed to look after a particular economic interest. It comes from increased taxes on the investment income of political campaign committees of those candidates who refuse to accept spending limits, who want to have the right to take in all the money they can possibly take in from special interest groups.

You notice I did not mention one single average American taxpayer. But the buzz word taxpayer financing has been used. Which taxpayers? The taxpayers that are agents of foreign governments?

Mr. President, do you think if you polled the American people that the American people would say we are going to rise up in arms because those who are paid to lobby for the economic interests of other countries, which sometimes are not the same as our own interests, that they are going to have to pay more to register to lobby, to be paid to lobby for foreign governments? I do not think so. But that is the buzz word that was used.

Then there was the buzz word entitlements, as if we were going to write checks to political candidates out of a fund financed the way I just described, whether there was money in it or not, added to the deficit, another entitlement.

Mr. President, anyone who bothers to read the bill knows that there was a separate trust fund set up; that if the money from the sources I have just talked about was not sufficient to pay the incentives for spending limits in this bill, then those incentives would have been reduced proportionately. There was no entitlement in this bill.

Then we were told incumbents cannot be trusted to write a campaign reform bill. Mr. President, incumbents wrote the present rules. The rules that we are now living under were written by incumbents. They were passed by both Houses of Congress, and no wonder they set up the current system. No wonder incumbents would want to keep the present system. The facts speak for themselves.

In the last election, incumbents, sitting Members of Congress, were able to raise five times as much money as challengers—five times as much. Do you think incumbents would want to change the system to put spending limits in place when they can raise five times as much as new people trying to break into politics? The current rules were written by incumbents. They allowed political action committees to pour $10,000 into every election committee, for each political action committee, and the political action committees poured in $10 for incumbents for every $1 that they gave to challengers—a 10-to-1 advantage.

Of course, incumbents wrote those rules. And that is why it is so difficult to get incumbents, the Members who are sitting here now, to vote to change it, because they have so much advantage, so much advantage in a system dominated by money when sitting Members of Congress have so much more power to raise money than the new people trying to break into the system.

So, Mr. President, what we have seen today is buzz word politics at its best using false words about taxpayer financing and entitlement and incumbent protection to present an image to the American people of this bill that is absolutely opposite from, in fact, what it would have provided.

Mr. BIDEN. If the Senator will yield for a question, I compliment him for his work on this. I have been with him from the beginning. I am sorry he is leaving.

This is the question: In the time the Senator has been here, has he ever seen a circumstance where on the floor of the Senate—on almost any bill, but this bill in particular—where a Senator can stand up on the floor, criticize what is being proposed, and be the very recipient of the very thing he is criticizing? I think it is evident that the public and the press have already discounted this—not this, but discounted this institution. Does the Senator ever recall when somebody can say, by the way, this is the public dole and the public trough and this is going to provide all this money for incumbents, and those persons have already accepted tens and hundreds of thousands of dollars from the same system?

Mr. BOREN. No; I say, Mr. President, that the Senator is absolutely correct. I have thought that we have strained the boundaries of possible hypocrisy in the past, but I believe we have finally broken through them with the extreme example that we have seen in the course of this debate.

Mr. President, if we want to know where we are in this country, I would recount, without using any names, a conversation I heard on the floor of the U.S. Senate a few days ago. I overheard two of my colleagues discussing a candidate. They said the candidate was trying to decide whether or not he wanted to spend the next 2 weeks campaigning, out telling the people of his State what he believed in, out discussing the issues, out listening to the people about what was on their minds, the problems they wanted solved, or whether he should spend that 2 weeks on the telephone raising money. Mr. President, both of my colleagues' advice was: If that candidate had any sense, he better spend the 2 weeks on the telephone raising money instead of out discussing the issues with the people or listening to the people.

Sadly, my two colleagues were right. They were right, because if that candidate wanted to have a chance, he has to understand that he is participating in a system in which money—not what the people back home think, not the problems on their minds, not the ideas he or she has to present to the voters, but who can get the money to buy more of those 30-second television attack spots—that is what is dominating elections.

So, Mr. President, I can only say this: We are playing Russian roulette with our system of Government, because when we allow a system to continue that so undermines the faith and confidence of the American people, that so clearly allows money to be the deciding factor, that shuts out the majority of Americans who do not have the financial means to write that $1,000 check, or that $5,000 or $10,000 PAC check, we are continuing to erode the confidence of people in their own Government.

I have to believe—and I have faith and confidence in what the majority leader said—that some day the system will be changed. He and I will not be here. We will both be leaving the Senate at the end of this session and trying to serve the public in other ways. But I know that one of these days—and I hope we are both invited, along with others who have been part of this cause—the President of the United States will sign a bill that will change this rotten and corrupt system. I hope we will be invited to be there for that bill signing. I know there will be others in this institution who will carry forward this fight and battle. It cannot be allowed to continue, nor should we allow it to continue. If we do, we further erode that trust and we erode the legitimacy of the system.

Mr. JEFFORDS. Mr. President, I know the majority leader would like to speak. I would like to discuss the past bill for 2 minutes, if that would be all

right, or else I could yield now if that is not convenient.

Mr. MITCHELL. I want to get a unanimous-consent agreement with respect to the GATT implementing legislation. So if the Senator wants to speak for 2 minutes, or a short time, I will be pleased to yield to him for that purpose.

Mr. BOREN. I yield to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I would like to make an inquiry of Senator BOREN. I listened to the majority leader and I agree with everything he said. I am one of the 8 percent he referred to who has been working hard here to try and get an agreement. I was discouraged to hear from the Senator from Oklahoma that the bill is dead. I would like to bring to his attention those things which I feel would have to be modified in order to reach the agreement that the six or seven of us had to vote for cloture. I would like to comment, and then get your comment, as to whether or not it would be foreseeable to try to get those changes in the time we have left.

I commend the Senator for the tremendous work he has done. I have enjoyed working with him. The elements that we have concern about are basically as follows: First of all, the reduction of the PAC limits. The Democrats in the House, who have been holding this process up, came down in their limit. They came down from a $10,000 to a $6,000 total limit for the election cycle. That is not even halfway from where we started. I would hope they would agree to come down at least another $1,000. The more difficult part of the PAC aspect relates to the differences between the House and Senate limits, regarding what percentage of the total money can be used within the spending limits. It is 20 percent for the Senate in PAC's and 40 percent for the House. This is in violation of the guideline that we had. They had to be the same.

The frank is another area where there is a difference which creates difficulties on this side. As far as the Senate is concerned, we would have no frank during the election period, whereas, in the House there is no agreement on this issue. These are, I think, the major areas of concern. I am perhaps an incurable optimist, but I hate to give up. I would like to inquire as to whether or not it would be conceivable that we could get adjustments in these areas so that we could perhaps get back together again on cloture.

Mr. BOREN. I thank the Senator from Vermont. Mr. President, I would have to say to the Senator, in all honesty, we have pursued negotiations over a long period of time, and let me say that the minority leader commented that, as far as he knew, there has been no consultations with those on the other side of the aisle, the seven who had voted previously to push this legislation forward. I want to say that we have had consultations. I personally have had consultations with every single person as we have gone through the process—certainly, as the Senator knows, with him individually on several occasions.

It was not my purpose, in any way, to pass a bill to seek partisan advantage for this side of the aisle or the other side, but to be evenhanded. And we have had very fine cooperation from several individuals, including the Senator from Vermont, on the other side of the aisle.

We pushed very hard for all of the points that were raised in the letter, from those on the Republican side of the aisle who voted to send this bill forward. We succeeded to some degree—not to every degree, but to some degree. We did get the amount of PAC spending that could go to candidates reduced, as the Senator said, from $10,000 to $6,000. I wish we could have gotten it reduced much further. We did succeed in keeping the McCain amendment, which made certain that campaign funds would not be used for personal use.

We did make a great deal of progress on nonparty soft money, along the lines suggested by the Senator from Vermont, requiring that when nonparty groups are utilizing soft money to influence elections, that soft money has to be disclosed—within 20 days of the election—every 24 hours. We made some progress on further curtailing mass mailings and misuse of the frank in elections, although there were some differences—the Senator is right—and there were differences on the aggregate amount of PAC money that could be accepted.

The final result in the House was one-third, 33 percent. We did not get down to 20 percent. We did bring it down some. We got it down to 33 percent.

I just say to my colleague that we did the best that we could. I believe we had a bill that still with its shortcomings, and there were shortcomings, and I think the Senator from Vermont has enumerated some of those shortcomings, I think it is still well worth passing.

I do not believe at this point and given the procedural situation where we have a postcloture filibuster of 30 hours even if we get cloture—we failed to get cloture today —I think given that circumstance the majority leader pointed out this is the first time in 210 years in the history of this institution that this tactic has been used of filibustering the motion to even go to conference, the motion to even try to sit down with the House and form a bill.

So it is clear, I believe, at this late hour and in this Congress with the tactics that have been employed, and undoubtedly will continue to be employed by some who opposed this bill, we would have time for additional negotiations.

I have to say with reluctant sadness after 11 years of personal work on this matter that I believe with this Congress this legislation is now dead for this year.

I know my colleague will be returning to the Senate. I hope that he will continue his effort for a bipartisan solution. I hope that others on his side of the aisle will join him. I hope there will be those on this side of the aisle who have been for this provision in the past for major reform will continue this.

I wish him well in that effort. I will never cease to have an interest in it and never cease to speak out about whatever my role in life might be.

Let me conclude, Mr. President, by saying to the Senator from Vermont that it has been a personal privilege for me to have served with him as a Member of the U.S. Senate. I have talked very often about the need to set aside partisanship. I have said on some occasions I wish I could speak from the center of the aisle because if there is any affliction along the way we finance campaigns that I think is undermining our political process it is that all too often we think of ourselves, first, as Republicans or Democrats and then, second, as Americans. We have it mixed up.

We were sent here to it be Americans first. We were sent here to work together without regard to parties for what is good for this country.

Let me say that among those Members of the Senate who have worked the hardest to present themselves as Americans who have worked in a bipartisan spirit for genuine and basic reform, the Senator from Vermont stands in that group for which I have the greatest admiration. The people of Vermont are very fortunate to have such a Senator representing them, and I have the utmost respect for him.

I simply want to say in this public forum there has been no one on either side of the aisle during my time of working on the issue of campaign finance reform that has worked harder or more sincerely or with more dedication and determination for this effort than has the Senator from Vermont.

If we were close at hand I would shake his hand with thanks for being an American first and putting the interests of this country ahead of any personal or partisan political considerations, and I state again in closing that it has been a real privilege to serve with him in this institution.

Mr. JEFFORDS. I thank the Senator for the comments, and I share them.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for

committee consideration of S. 2467, the GATT implementing legislation, continue to be counted regardless of whether or not the Senate is in session.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Mr. President, reserving the right to object, I just talked with the leader and we are going to agree. Perhaps the best procedure is to make as part of the consent agreement that I be recognized after it is agreed to that I be recognized and have the floor and I can explain to the colleagues my position on this if that could be part of the agreement.

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

That is made part of the agreement. The unanimous-consent request is agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of all Senators, when the Senate adjourns, it will stand in adjournment until 9 a.m. on Wednesday, November 30. On that day we will use 12 hours of the statutory 20-hour time limit for consideration of the GATT implementing legislation.

When the Senate recesses on that day it will stand in recess until 10 a.m. on Thursday, December 1, at which time it will reconvene for the remaining 8 hours of debate on the GATT legislation.

The final vote on that legislation will, therefore, occur at approximately 6 p.m. on Thursday, December 1. When the Senate completes action on the GATT implementing legislation, it will adjourn sine die. No other business will be conducted on those 2 days of session.

Mr. President, I want to thank all of my colleagues who have participated in the discussions leading to this agreement, including first, of course, the distinguished Senator from South Carolina, and I thank him for his courtesy on this matter, and the distinguished Republican leader, who I also thank for his courtesy on this matter, and all other Senators involved.

Mr. President, I simply say to Senators that with respect to the remainder of the day as soon as the Senators now present who wish to speak on other matters complete their remarks we will return to the D.C. appropriations bill.

It remains my hope and my intention to complete action on that bill. We expect the Senator from Ohio, Senator METZENBAUM, to be present shortly to offer an amendment to that bill which will be debated and disposed of today, and while we are on that subject, which I expect will take some time, while we are on that amendment which will take some time we hopefully will be making progress on a procedure to complete action on that bill today.

Mr. President, I thank my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

CAMPAIGN FINANCE REFORM

Mr. HOLLINGS. Mr. President, I thank the distinguished majority leader and the Senator on the other side of the aisle. I have two comments, in essence, one with respect to campaign finance, and one with respect to GATT.

With respect to campaign finance reform, I have been off in the curtain, so to speak, waiting the outcome of this exercise, which I might add is going nowhere. It has been like a dog chasing its tail.

Some 8 years ago I proposed a constitutional amendment of one line that would allow the Congress to control or regulate expenditures in Federal Elections. Since that time, I have had several votes, gaining a majority and getting votes on both sides of the aisle. It has been a bipartisan approach.

Why a constitutional amendment? Specifically, I saw what happened during the 1968 Presidential election when Maurice Stans, who later was the Secretary of Commerce under President Nixon, exacted thousands and thousands of dollars from various constituents. One gentleman up in Chicago gave a million, 2 million bucks. After President Nixon had taken office Secretary of Treasury Connally, his good friend, came to him and he said: "Mr. President, there are a lot of people who have given you large sums of money. They have not really had a chance to shake your hand and meet you. I think you should come down to a Texas ranch and we will have a barbecue. There you can meet and thank them." The President said, "That is a good idea."

On the day of the barbecue, Dick Tuck pulled a Brink's truck up to the ranch entrance and a picture was taken. When the picture was published, there was an uproar on both sides of the aisle. The image was that the Government was up for sale.

As a result, in 1974 we passed a bipartisan campaign finance reform bill. Everyone agreed, except one gentleman. The distinguished Senator from New York, Jim Buckley. Not wanting spending controlled, Senator Buckley sued the Senate, the Clerk of the Senate, Frank Valeo. That is the famous Supreme Court decision of *Buckley* v. *Valeo*, a 5-to-4 decision. In *Buckley*, the Court equated money with speech, and struck down as unconstitutional the capping of campaign spending.

This decision resulted in a huge loophole in our current campaign finance laws. Let us say I have all the money which in essence gives me all the speech I could possibly use. You, however, have very little money which in essence limits your speech. This has not preserved your 1st amendment privilege of free speech. In fact, it absolutely violates it because if you and I run in a campaign and you have $100,000 and I have $1 million, I wait until right now, October 1, and I come in with an onslaught of newspapers, billboards, TV, magazine articles, and everything else. You are trying to respond with your little $100,000. The next thing you know you run out of money by October 10, and I have a free run to election day. With all my money, I have virtually taken away your speech.

Now, what we should do is what a majority has voted for bipartisanly—adopt a constitutional amendment limiting campaign expenditures. Five of the last six constitutional amendments deal with elections and all were adopted within 18 months. Don't give us the arguments that it would be a terrible constitutional violation to amend the Constitution or that it could not be adopted in any amount of time. If we passed it now and proposed it to the legislatures of the States, I can tell you here and now that it would be ratified before the November elections. In fact, my amendment, at the request of the States, allowed for the limiting of campaign expenditures for not only Federal elections but also State elections.

I hope now we get past all of these arguments: How much do you give? How are you going to get the money? Whether you are taxpayer financed or whether you are not. The current effort to reform campaign financing proved to be a good college try but again and again, it is getting fewer and fewer votes. Let us now go back to the real world and cut out playing games and do as we did in the 1974 campaign finance reform, no cash, all contributions on the top of the table, limited to 1,000 bucks, recorded here and at the secretary of state back home, all expenditures recorded, and most importantly, total expenditures capped. At that particular time, South Carolina's limit for a Senate candidate was $512,680. I think the candidates in the State of Minnesota, for example, got around $730,000, a much larger State. Whatever it is, we must limit total expenditures.

Whatever it is, we have to get away from this nonsense that the incumbent has the advantage. I can tell you now, I just ran less than 2 years ago, and you do not want to be an incumbent. I was fortunate enough to have someone with a congressional record running against me. I am glad somebody without a record did not run against me because all the negative politics comes into play. They can twist, distort, charge, and everything else. That is the game of politics today.

I think you have already seen the best of the best over on the House side lose out in a primary. He had all the money and the challenger only spent a very, very limited amount and won.

So get away from all this who gets the money. It is an even-steven proposition. Hold down the spending. Let us go with the constitutional amendment.

GATT

Mr. HOLLINGS. Mr. President, with respect to the agreement, this is not really my agreement.

I had talked early on. Let us go back to April. We were marking up the budget in conference. At that particular time in the budget conference there was a dispute between the House and Senate that ensues this minute with respect to GATT, as to whether or not it is revenue neutral. The House has a 5-year rule and we have a 10-year rule. Within 5 years, yes, we could find, let us say, $12 billion. But within the 10 years, nobody could find the additional $31 billion, because the CBO had found $43 billion was necessary to make it revenue neutral.

On that particular score, I did get a call from the President of the United States, who asked that I waive that budget provision. I told him I thought it would be a bad mistake to do so. I did not want to do it. And we finally agreed not to waive it.

But at the time of the conversation, I said, "Mr. President, you beat me on NAFTA."

And I say to the Senator, I am not going to get into the NAFTA debate. I would be delighted to do it.

I said, "That was a bad mistake. Immigration is up and trade is down, jobs are down in the United States. And we can prove it categorically. Industries are leaving."

But I said, "You beat me with that white tent you put out on the back lawn with all those Republicans that gathered there under the tent. So, Mr. President, on GATT, you better get out your little tent again and put them all under there and get those Republican votes, because I am absolutely opposed to this so-called free trade nonsense."

What happens is, in exercising our right—and it is a deliberate right under the Constitution, article 1, section 8, that the Congress, not the President, the Congress of the United States shall regulate foreign commerce. We have a constitutional responsibility.

We yielded substantial rights of that particular responsibility with this so-called fast track. And what happens is, we said, "All right, Mr. President, there is difficulty getting a lot of nations together and a lot of amendments. We understand it. But at least let us have, with the committees involved, 45 days in committee and then 15 days on the floor, or 60 days, 60 days with fast track in the Senate."

Now they come and instead of fast track they want instant track. They say, "You are holding up the works." Well, let us see who is holding up the works.

When we exercise our right—and the President knew—everyone there connected, Ambassador Kantor knew my particular position—that we wanted to air it out, we wanted to debate in the open. We never had open debate on the floor of the U.S. Senate because by the time fast track comes to the floor—it is worse than fast track, in that the jury has been fixed.

I had lunch yesterday with Leon Panetta, the Chief of Staff. At that lunch, he said he already had 300 votes over on the House side. I said, "You ought to be O.J.'s lawyer. You know how to really fix the jury ahead of the debate."

We had not even begun to debate. In fact, we did not get the implementation document until yesterday morning. We have had it in our committee for less than 48 hours, and they are wondering, "Why are you dragging your feet?"

I knew that, under GATT, since you have to the end of June of next year to ratify that agreement here in the Congress, that since none of the major trading powers in Europe or Japan had ratified it, that certainly it would be that they would not cause a lame duck session in the context of bringing everybody back in an emergency situation for GATT when they did not do it for health care, they did not do it for campaign finance reform, they did not do it for the information super highway, they did not do it for the maritime bill, they did not do it for the technology bill.

We have all these measures, highly important, more debated, more worked on by all the committees and ready to go and ready to be agreed upon.

But with the shenanigans going on and not being able to get these things up, if they were not going to bring the Congress back in a lame duck session for any of those, certainly they would not for one that they could easily agree on at the first of the year.

So exercising the rights under fast track, I knew we would have 4 months before we came back in January to fully air and debate it, and that is all I could ask for to try to educate the folks in the mistake they are making.

But they took this different turn, and now they are requiring us to come back.

So if anybody is to call for a lame duck, it is the President himself. I cannot call anybody back. And we are playing by his rules and he knew it and Ambassador Kantor knew it.

And I thought, really, I had all the rules in line, but the majority leader has educated me. And that is, they have the full intent, if we did not agree, that the leader would come in, the Chaplain would give a prayer, and the leader would move to adjourn. And the next day, the Chaplain would come in, the majority leader, exercising his right to first be recognized, would move to adjourn. And on and on for 45 days. And he has that right.

And I said, "Now, wait a minute. I am trying to persuade, not alienate everybody. So I am not going to be that nasty." There is no idea to be nasty or anything else about this thing. "But you put in me a position where I guess I have to agree. I have run out of rights. I have run out of rules."

I have run out of rules. So therein is the reason for this. I am fully intent on killing this measure, GATT. The President says he needs it now because he has to lead, and nothing, nothing, nothing could be further from the truth.

There is no chance of him leading. He is not a leader in international trade. I do not know how we get that through his head, that head, this head, or anybody else's head around here. They are not leaders. The United States is not the superpower, Japan is.

We have two fundamentally different trade systems and economies. We follow, of course, Adam Smith, David Ricardo; the doctrine of comparative advantage, free markets and free trade. They follow the Friedrich List—the Germans, the Japanese—of the wealth of the nation being measured not by what you can buy but by what you can produce. And they look at us in total dismay when we talk in terms of morality; that you are cheating on the trade things, that you are unfair. "Be fair. Be fair."

Come on, get off of that childish nonsense about being fair—trade is trade. You learn in Contracts I in law school, "a sound article for a sound price."

The context of our current trade policy is the cold war: The cold war, where we had to subordinate the economic interests of your country and mine for national security, to keep everybody within the alliance against communism and against the Soviets—and yes, they give me history—President Reagan initiated this GATT round. You are right. You are as right as rain. President Reagan started this GATT with the same old cold war philosophy and pressures at the time here, 8 years ago.

So here it is. President Reagan, President Bush, and now President Clinton, want to continue cold war trade policies—when what we need to do is refurbish our manufacturing sector and strengthen the economy of the United States. The foreign policy they talk of is like a three-legged stool: You have the one leg of your values as a country, you have the second leg as your military power, and your third leg is your economic power.

Under the first leg is the values of the country—no one questions it. The United States gives lives to feed the hungry in Somalia and now is trying to build democracy down in Haiti.

The second leg is that of the military power—unquestioned.

But the third leg, the economic leg, is fractured. We are in deep trouble.

You can only go back to the same promises they made in 1979 under the last round, the Tokyo round. I was on a program last night and I heard the same sing-song, "x thousands of jobs are going to be built up, we are going to have a beautiful economy." It was the same old malarkey we heard under Reagan economics that George Bush called voodoo.

Now we have international voodoo, or trade voodoo. We heard that in 1979. We have it given to us in 1994, and there is no education in the second kick of a mule. Mr. President, since that 1979 agreement we have had an outflow due to our trade deficit—historically never having occurred in one nation in the history of this world—of $1.4 trillion. We have had 3.2 million jobs lost. We have had an inflow of manufactured goods. So now our manufacturing sector has dropped from 26 percent of our work force to 16 percent of our work force. What jobs we have are part-time jobs that they are all bragging about creating. And those Americans with regular jobs are taking home less pay in real terms than what they were taking home 20 years ago, and less than even a few years ago.

So do not give me all of these wonderful things. Here I am losing out. I heard the gentleman last night representing the Alliance for GATT Now, the blue-chip corporations. And, heavens above, they do not have any standing in this court of trade disputes.

Here it is, "The Work of Nations," by none other than Robert B. Reich, the Secretary of Labor. And Bob Reich says in his book—just one line I will read and we have plenty of lines to read on this one. Listen to this: "America's 500 largest industrial companies failed to create a single net new job between 1975 and 1990." They had not created any jobs in 15 years. The gentleman I was speaking to is one of the largest exporters from Taiwan—yes, they create jobs in Taiwan and other countries of the world around.

And what have they done in the last few years? The lingo in the news now is "downsizing." Downsizing—they are firing 60,000 from IBM; 71,000 from General Motors. Aircraft? Mr. President, 28,000 from Boeing—gone. I am going to have that Washington crowd over there join this textile Senator.

They say, "Oh, HOLLINGS, he's just a textile fellow crying because he has low-skilled workers and he is just shilling for them."

I am not just shilling for the textile industry. I am shilling for the aircraft and the automobile and the high-tech industries, because when we had the NAFTA debate it came out. You have to understand. They build things very, very productively in these other countries. Down in Mexico—not Detroit, not Europe, but the most productive Ford factory is down in Mexico. Look at the rankings by J.D. Powers.

I know they get skilled because I get them skilled. Why do you think they are coming with BMW to South Carolina instead of Detroit? We never have manufactured a car. But I have to go listen to Michael Porter from Harvard talk about the same old "comparative advantage."

See, they are off on the example of the British. The British reassured themselves 25, 30 years ago—"Don't worry. Instead of a Nation of brawn you are going to be a Nation of brains." And, "Instead of producing products you are going to create services. Service economy, service economy, service economy—instead of creating wealth you are going to handle it and be a financial center."

Now England is a museum to visit. It is pleasant. You can look at the countryside. There are two levels of society, the impoverished and the very wealthy with these large estates. If they want to know where a historic Disneyland can be located, it is going to be located right here in Washington. We are going the way of England, "to hell in a hand basket" economically.

We have to wake up. How do you get their attention and how do you wake them up? How do you get that media crowd? "Whose bread I eat whose song I sing."

When we debated this one time before I went to the Washington Post, about 5 years ago. They made $1 billion, and about 80 percent of it, $800 million, was from retail advertising. How does that crowd come in?

Oh, we will get into it because we are going to show the imported article does not reduce the price. It increases the profit. You see, the nationals went over and became multinationals, the banks became multinational banks. They are financing the consultants, the think tanks, the Washington lobbyists, the Trilateral Commission—all put on the full court press: Free trade, free trade—dump, dump, dump, dump, dump—their products. Over half of our imports are American-produced products overseas and brought back in. We are playing the game against ourselves and do not even understand it. So the retailers making a bigger profit and are the ones who pay and fix the vote. You are not getting it cheap.

Then you talk about consumerism, consumerism, consumerism—that crowd that is firing everybody is interested in consumers?

Yes, they are making more money, but I can tell my colleagues now, you can produce anything anywhere. We are not in charge. And what is the real danger?

You have, as I speak, Ambassador Kantor, the Special Trade Representative, right in conflict, let us call it, with the Japanese trying to get a bilateral trade agreement. Now, question one: Why, if these 117 nations are all going to be dealing by the same rules and singing out of the same hymnal, why, if GATT gets everybody playing by the same rules, is he so intent on getting an agreement with the Japanese? And how does he try to enforce that agreement with the Japanese, like we did with semiconductors? We said we are going to use super 301, and that is how we got these voluntary restraint agreements and that is how we rebuilt our semiconductor industry, and that is the tool he is using.

Mr. President, that goes out with GATT. Let us get right to it. Here it is, "The Report on United States Barriers to Trade and Investment." And if you look on page 12, you will find section 301 contradicts GATT. You can go through the book. Not just with the Europeans. Here is a booklet entitled "94 Report: Unfair Trade Policies by Major Trading Partners of Japan," finding 301 GATT illegal. And we can go to the few remaining tools we have on the books to go against dumping which go out the window with GATT.

I can go at length into how we will have one man, one vote in Geneva, how Castro can cancel out our vote. The fact of the matter is, of the emerging nations, three-fourths of the 117 countries, three-fourths of them have voted against us a majority of the time in the U.N.

Take Mexico. President Salinas is the man they want to be leading the WTO. Mexico has voted against us around 75 percent of the time in the United Nations Look at the record last year. Go back to the record and find out where we are and sober up, and quit going home and saying, "Oh, I'm for jobs." We have an affirmative action policy with GATT in these trade policies of exporting our jobs and importing the unemployment of the world, and we cannot afford it anymore. We cannot afford it anymore.

We said, thinking we were in charge, that GATT in December was going to get us financial services. They did not get financial services. All they got was an agreement to talk for 2 more years. They tried to get labor and environmental rights in April when Ambassador Kantor went to Marakesh. He could not get it then. So then they brought in the Commander in Chief, President Clinton, and in Naples in June, they presented a plan to the G–7 group in Naples and they said, "Let's go out and have a drink. We'll see you later, President Clinton. Goodbye." And here is the man who says he is in charge, that he has the lead.

Environmental, labor rights—that is exactly what Ambassador Kantor tried to get in Marakesh. The rest of the world rebuffed us. So you do not have those things covered. It is not just my million of textile jobs; it is high-tech jobs, it is environmental concerns, it is labor rights. All of those things go out on this full-court press where they do

not want debate, they do not want coverage, they do not want an understanding whatsoever. And then they want to say, "Oh, he is being technical and causing us to come back."

No, we can come back. There is plenty of time between January and June of 1995 when the new GATT is supposed to take effect. You can bring it up at any time, we can debate it, and we can have a vote. Look at the ads. Look at all of those things on TV. Their sponsors do not—when are you going to wake up—create jobs. We are losing them right and left. They do not increase the economy.

And what has really happened on the other side of the ledger with our spend and spend and spend and spend—that is another thing. You talk about bipartisanship. We had bipartisanship for Reaganomics, and now neither side cares about paying the bill. I have advocated a value-added tax—a tax. I had to run on that just the year before last. But I want to pay the bills. Read Tom Friedman in the New York Times about a giant restraint in trade policy. Actually, Kantor is not our trade negotiator. The Secretary of Treasury, on account of fluctuations——

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator has exceeded his time in morning business.

Mr. HOLLINGS. I then have to close, Mr. President. I appreciate it very much. But I will just end with that. If you want to get trade policy, unfortunately, you have to go to the Secretary of the Treasury. The simple reason is that we had a 10 percent cut, for example, in tariffs, but they had a 9-percent devaluation of the peso in Mexico and that immediately canceled out the so-called tariff cuts.

I want to get into the tariff cuts later. GATT does not change any entry into markets like they are talking about. That is why Mr. Kantor is trying to get in Japan now. He is not going to get in there.

Until we start enforcing our dumping laws, sober up and begin to act for the economic interests of this land, we are going down the tubes in this country.

I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

CAMPAIGN FINANCE REFORM AND HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, I rise to discuss two topics that are central to the Senate debate in these closing weeks. One is health care reform and the other is campaign finance reform.

I am not the first Senator to address the connection between these two issues, but my point of view may differ from that of previous speakers. I will begin with the matter that appears to have been at least partially concluded this morning, and that is the issue of a filibuster on campaign finance reform.

I have been here not only for the vote but for the arguments made by many of my colleagues subsequent to that vote. All of them were, with the exception of the Republican leader's arguments, by people on the other side of the aisle. One of the first points that was made, of course, is that campaign finance reform is a highly partisan issue. My colleague from South Carolina just gave us some evidence that goes back 30-plus years on that subject. The fact that election law reform, campaign finance reform, is inevitable has been testified to here on the floor of the Senate over the last 2 years by the arguments that have been made on behalf of campaign finance reform.

But the arguments made this morning were largely about who killed campaign finance reform, as though it were dead. In my view, it is not dead. It died here about 15 months ago on the floor of the Senate. It was resurrected by this Senator and by my colleague, the senior Senator from Nebraska. We pulled it up out of a filibuster at that time. We got a consensus on the floor of the Senate that was bipartisan, and we passed it out of the U.S. Senate, sent it to the House of Representatives, and it is there that it was killed. It was not killed here. This was a ceremony this morning. This was a ceremony this morning that was presided over by the Democratic leadership to say that they had failed to come to a consensus between the House and the Senate within the Democratic leadership on the issue of campaign finance reform.

It is a fact that Republicans almost to the person—not quite; there were seven of us in this group—did not like our proposition. In fact, I will never forget the fact that the same evening that we got this bill out of the Senate, I had a fundraiser. A lot of my colleagues had promised to come to my fundraiser. I think two of them showed up, plus one Democrat, the first time a Democrat had ever come to one of my fundraisers.

So there were a lot of partisans on this side of the aisle who did not want to see the kind of campaign finance reform that we reported out of the Senate. Quite a few Members on the other side of the aisle did not want to see the kind of campaign finance reform that was reported out of the Senate. But there was enough of a consensus to revive this thing and to send it to the House. And for 15 months, Democrats have been dissecting the body of that amendment, trying to put it back together again, never talking to me, and I cannot vouch for the other Members of our group of seven Republicans. I know of only one who has had any conversations with any Democratic Members. But it was the Democratic leadership, going over this body piece by piece, trying to put back together something that would look like the independent, bipartisan proposal that came out of the Senate, and they could not do it. They just could not do it.

I think our colleague from Oklahoma, who spoke here this morning, who provided the leadership to help us put this together, pretty well admitted the fact that they just could not do it. I do not agree with my colleague from Vermont when he says maybe if they had taken the PAC's from $6,000 to $5,000, he might have agreed with it. He might have agreed with it. But nobody else in our group would have agreed with it. We came to this issue because of PAC's. We came to this issue because of special interests. We came to this issue because of the money chase. And we were not going to stand around here and compromise by asking if you will knock off 1,000 here and 1,000 there. That just means you are going to have more parties, more fundraisers, more special interests, because the need is still there. And if you cut the PAC limit from 10,000 to 6,000, it means you are going to have 40 percent more fundraisers. That does not end the money chase. And the Members of the House of Representatives on the Democratic side of the aisle know that. That is the way they survive.

I have had three elections, two of them against megamillion-dollar candidates who were financing their own elections out of their own pockets. I had to raise PAC money, and I became a defender of the PAC's because I could not have been elected without them. But I only raised 25 percent of my total from political action committees. I raised 75 percent from ordinary people. By the time of my last race, I had 50,000 people contributing to my campaign. I defy anybody in this body to find 50,000 people—other than maybe in a large State like California—who are individual contributors. So I took 25 percent from PAC's, and I am going to tell you in a minute what I paid for that.

My colleagues in the House on the Democratic side in Minnesota take in an average of around 75 percent of their money from political action committees. Do you think they want to part with that? Of course not. Of course not.

That is where campaign finance reform died, if in fact it is dead. But it is not dead. The Democratic leadership, which so excoriated the alleged filibuster conducted by my colleagues on this side of the aisle can get back together again. They have a chart. They have had it for 15 months. They have had a set of principles. They have had a bipartisan consensus proposal built by Democrats and Republicans here 15 months ago they can work with.

It is all there. They know it. So during the debate about is it dead, who killed it, all the rest of that sort of thing, you could tell by each of these successive votes that it was not being killed in this Chamber.

This last vote in effect was 52 to 48—technically it was 52 to 46, but two of my colleagues on the Republican side of the aisle, Senators NICKLES and BENNETT, were not here today to vote. They have consistently voted against cloture. So I say it is a 52-to-48 vote. The message keeps coming down, and it is to the Democratic leadership: Decide whether you are going to do bipartisan, nonpartisan campaign finance reform or, if you just cannot do it, then why not admit to everybody in the country why you cannot.

I do not think it is the fault of the Senate Democratic leadership. I think Senator MITCHELL has been patient beyond belief. We all know he has been patient with Republicans. But I think he has been even more patient with his counterparts on the House side on the Democratic side of the aisle. I think he has tried and tried and tried as his last stand on the Democratic side of the aisle to come up with something that might be this miraculous bipartisan, nonpartisan reform.

But as his friend, the Republican leader, Senator DOLE, said an hour or two ago, that is probably trying the impossible. Only if someone takes this whole issue outside of this body and the other body and gives it to people who are not paid to be Democrats or paid to be Republicans or paid to be Senators or paid to be Congressmen and ask them how this Nation is going to restore confidence in the election process are you ever going to resolve this issue.

My colleague from Oklahoma talked about buzzword politics, and I wish to talk to my colleagues about buzzword politics. Last week, an organization that calls itself Citizens Action released a report that if I were not in the Senate and you were not in the Senate and others were not in the Senate would be libelous. It, in essence, accused Members of this body of taking bribes. Some Members have picked up on that theme on the floor of the Senate and said that health care reform failed because Members of Congress are so greedy and so craven that our will to pass health reform was overwhelmed by millions of dollars of campaign contributions, some of which many of us have accepted over many years.

Mr. President, the popular chorus is that there is a lot of Washington that does not work well, that does not work the way people expect it to work. That is the chorus, it is true. But I am not going to let these preposterous allegations stand unchallenged.

Citizens Action and their spokespersons in and outside the Senate are proponents of a single-payer health care system. That is their goal.

Their approach was rejected by most Members of this body, most Members of the House, by the White House, and by the American public. If ever there was a clear message on health reform from the American people, it is their absolute opposition to turning the health care system of this country over to the Government.

Yet the supporters of single payer would have America believe they are the only true proponents of health care reform. Once they declare—and this is just to give you one example of how this system of political action committees and special interest financing works—once this outside group declares that they have a monopoly on virtue, then they denounce the rest of the proposals—the mainstream plan, Dole plan, and all the others—as sellouts to special interest groups.

They will not entertain the notion that anyone can disagree with them on principle. They flatter themselves into believing that anyone who disagrees with them must be a crook engaged in a bidding process with special interest fat cats.

Mr. President, I heard the majority leader say something about integrity in this body and his belief about the Members of this body. That comes from experience. Mine is the same. The allegation of crooks doing bidding to special interest fat cats is false. It is irresponsible. And as you have heard throughout the debate on campaign finance reform, and lobby reform, it is destructive of this institution.

One way to deal with these allegations is to have a public hearing on them. Frankly, I would challenge Citizens Action or anybody else who thinks that health care reform was killed by campaign contributions to present that case in some kind of an open hearing. Again, let us get it outside the body in a public forum and let us debate that issue. But I do not think that is going to happen.

It will not happen because the easy way is to present evidence of the contributions—as though they are a study—at a time when there is a failure in the system to meet the goals of the virtuous proponents of a particular proposal and then let the public draw their conclusions.

The public has had this presentation made to them so consistently, so often in the 16 years I have been in the Senate, that they buy it. Of course they buy it. They presume that there is a link between contributions and the failure of the system to respond to their needs.

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

Mr. DURENBERGER. I would be pleased to.

Mr. MOYNIHAN. Mr. President, the Senator is a distinguished and revered member of the Finance Committee. We would concede happily that no one on the Finance Committee has studied the health care questions more than he has done nor has brought more knowledge and concern for the subject. He and I and the other 18 Senators spent much of this year on this subject—31 hearings, and endless discussions. The mainstream grew out of our bipartisan committee. I do not recall a single word spoken in this year that could in any way be associated with some economic interest that had influenced a member of the committee.

Does he recall such position being put forward, such implication being suggested? Does he think that contributions or even local interests were the subject of our discussions to any degree that would be significant in terms of the outcome?

Mr. DURENBERGER. Mr. President, I would say no and quite to the contrary. As my colleague, the chairman of the Finance Committee, knows only too well, those of us who have had the experience of having to take on these difficult battles in which special interests are involved are very grateful to the chairman of the Senate Finance Committee for beginning the process with a whole year solid of hearings, sometimes two or three hearings a week on all of the interests, all of the principles, all of the plans, all of the proposals, all of the great ideas in health care. We are grateful for that approach because one knows in advance that there will be allegations by winners and losers of ideas or principles or plans that somehow or other some money or some other influence may have come to bear.

So he has not said it, but I think the fact of the matter is, to those of us who have been on the Finance Committee and who know our colleague well, who know the ways in which the Finance Committee operates, there may have been a purpose in preceding the decisionmaking process the way we did on a subject dear to the hearts of everyone in this country and difficult to understand. We had all these hearings so we could cover all of the interests involved, all of the different approaches, all of the different ideas.

It is amazing to me that as the hearing process went on, people learned. They began to ask different kinds of questions. They began to reshape their own views on the process, but it came out of the open process. It did not come out of the back door. It did not come out of Gucci Gulch. It did not come out of the fundraisers. It was happening in a public hearing. Senators were being educated. People were learning. Experts were having an influence, not with their checkbooks but with their ideas, and with their own experience. It is amazing, is it not, that this could happen in the U.S. Senate? Mr. President, I will say that in 16 years this has happened many times —not necessarily with the visibility that was given this particular effort by the people, the elections, the President and the chairman of the committee—but this happened time and time and time again. The larger influence on any of my

thinking comes from my constituents and my judgment. But that is enhanced by the process we all go through in this body of debating, hearing, listening to experts, having public testimony and hearings, and all the rest of that sort of thing. That is the essence of this process.

It is not the fundraisers, of which there are many. It is not Gucci Gulch, which does exist. There is no question about that.

There is a clear impression by people who have not come to these hearings, who have not lived through this experience, who are constituents of mine, that leaves only 12 percent of them trusting this process. They may think the decision making process I have just described may occasionally happen, but the fundraiser at night is where the real action takes place.

I just want to say that is a lie. I have not seen it happen that way. I understand people can have different views on where you come out on health care reform. I think people can have different views on a whole lot of things. But I would suggest, and I would even use my colleague from Minnesota as an example, that many of these views come from experience and judgment. They do not come from the so-called grubby interests. If I have it right, I can take the so-called million dollars that I have raised over 16 years from health-related interests—this is what I was charged with by Citizens Action—and put that against about $200,000 that my colleague, PAUL WELLSTONE, got from labor unions. Given the time we have been here, that means he has received about as much proportionately from labor unions as I received from health interests.

So someone could say PAUL voted for S. 55, PAUL voted on Davis-Bacon, PAUL WELLSTONE voted on all these labor union issues, and was influenced by $200,000. But I know better. I know that his influence comes from his life experience. It comes from his belief system. It comes from his judgment about what is the common good, all of which differs from mine on those particular issues.

But I believe that is where it comes from. It is his view of the role of Government in our society which is different from mine. But it is his view, not the unions' view imposed on him with a contribution.

It is his view of the role of markets in our lives. It is not the unions' view. So my view, the view of the Senator from New York, other people's view of the health care system, health care generally, health care financing, health care reform, that comes in the largest part from a set of life experiences, a belief system, a judgment about the common good, a view of the role of Government, and a view of the role of the market.

That is the reality. But that is not the judgment of Citizens Action. That is not the judgment of liberal editorials. That is not the judgment of cynical journalists in this country.

The connection between all of that activity in the last week or two blaming the insurance industry, the doctors, the hospitals, the health plans, for the destruction of Citizens Action and campaign finance reform is simple. It is called the blaming game. You do not get your way, and you blame somebody else. That is basically the way it works around here. The blame game is as destructive an exercise as we engage in in this body. The blame carries the implicit allegations that the majority of Members of this body are taking bribes. I think it is particularly destructive.

I know as I leave the Senate, as we leave this subject, the blame game will go on. It is the nature of modern politics.

Today, right now, while we speak, up there in the gallery behind the doors the blame game for campaign finance reform is going to get played out, and it will be partisan and it will be bitter. And, if history is any indication, it will consist mainly of half-truths on both sides.

My vote this morning against cloture on the campaign finance reform bill is going to be misrepresented by all kinds of people, and each of them has some ax to grind. I need to make the record clear today, in spite of what is probably going to be said about me in the days to come.

As I said earlier, 15 months ago I worked for hours with Senator BOREN, Senator MITCHELL, and finally Senator EXON to craft the compromise that allowed campaign finance reform to pass the Senate. We worked hard. We worked in good faith.

The product was a bitter pill for some partisans. But it was a better bill than we started with. And I could support it with enthusiasm.

From the day that bill passed until yesterday morning, the Democrats in the House and Democrats in the Senate have been meeting to craft a Democrat-only compromise. I have not been invited to a single meeting. I have not been asked my view on a single item at a single time. There has been no effort to work together.

Yesterday morning I was presented with a bill, and was told it was a done deal. I was told it was the best that the Democrats had to offer and there could be no changes.

In short, for whatever reasons, the Democrats decided to have a conference committee of their own. No Republicans were invited. And now we have the results of that one-party conference, and we are told a formal conference will effectively be a rubberstamp of the deal.

I can see no reason to cast a vote to send a bill to conference when the majority has already decreed what the final conference report would be.

Many have urged me to let this go to conference to see what comes out. Ordinarily, I would do that but I have been told in this case that the conference is a formality. The deal has already been worked out by the Democratic leadership. I could vote for cloture this week, let the conferencing go through a charade and then vote against the bill next week. But next week will be too late to fix the bill.

So I chose to send my signal to the Democratic leadership and to Common Cause today. If they are serious about reform, they ought to get back to work. That is the message.

Mr. President, I want to compliment the Democratic Members who voted the same way I did on this issue because I think it is important that both Democrats and Republicans send that message to the Democratic leadership. They could rethink the $200,000 taxpayer subsidy for the House candidates to run their campaigns. The money is structured in this bill to virtually guarantee that every incumbent will get it before his or her challenger. Some challengers will never qualify for it but every incumbent certainly will.

Two of my Democratic colleagues this morning have said no, there is no public financing in this bill. But there is a tax checkoff. In other words, you use your tax form to put in the money for campaigns. There is a reporting fee on foreign PAC's and there is a registration fee on lobbyists and foreign agents, all of which are requirements. If you are going to do business, you have to pay this reporting fee or registration fee. There is an increase in the marginal rate of tax on campaign investment income. And there is a tax from the Senate bill on noncomplying candidates. To say that this is not public financing is to say, to use a health care analogy, that where States have put surcharges on hospital bills it is not a tax on health insurance premiums. But it is. It clearly is. You can call it any name you want. It comes out the same way. It is a tax, and it is a public fund administered by a public agency. I served on the Ethical Practice Board in Minnesota. When we went to public financing, a bipartisan group got to spend this money, decide how it should be spent. If that is not public financing, I do not know what it is.

Second, every incumbent in the House will be able to roll over an unlimited war chest. In our set of principles, we thought it was important to address the unfair advantage of incumbents. You should not build up a big war chest in one campaign and carry it with your incumbency over to the next one and have this big lead on your challenger. Add to that your $200,000 in public financing before your challenger even has a chance to surface. The House said that they will not give up their financial advantage over challengers.

Those two things alone are enough to make this a bad deal for challengers. But they are not the worst thing. Let us return to the subject with which I opened—PAC money.

I have already said that the allegation that special interest money caused the demise of health reform is remarkable. I also know that the demagogues continue to allege it. I know a lot of the news media will promote the idea regardless of the lack of evidence.

Mr. President, as I said earlier, I ran two of my three campaigns against megamillionaires who financed their own campaigns; 25 percent of my contributions came from political action committees. I raised a lot of PAC money because the only alternative I could see was to allow two millionaires to buy a Senate seat.

Mr. President, I have paid for that with my Senate life, and I am still paying for it. Every time I expose myself in a difficult leadership role, somebody reports a health contribution or agriculture contribution or something like that. That is one of the difficult, if you will, suppressants of leadership in a place like this, as I know my colleague from New York already knows, and I assume my colleague from Colorado will learn as time goes on.

I will soon conclude, because I know my colleague from New York wants to speak.

This is why we have to get rid of the political action committees. I did not always feel that way. I would not be here if it had not been for the role they played. I would prefer a system of individual contributors. I would prefer that only the people I represent in Minnesota actually contribute to my campaign, through private contributions. I think that would be terrific. In Minnesota, we have a record of going door to door as Republicans and raising a lot more money than the Democrats. So gradually the Democratic Party has made it more and more difficult for parties to make contributions to political campaigns.

I also happen to think that if more of the contributions were going to the parties, then parties would be a lot stronger. When you cut the role the party plays down to almost nothing in a campaign, I hold no allegiance to my party. I stand up here as an entrepreneur in health care, or whatever it is. I owe no allegiance because they do not have enough influence to make a difference. I stand here as a Republican. I am elected as a Republican, but we have so tied the hands of political parties that we are now facilitating the transfer of power within those parties to the extremes.

I think if there were more power in being a Republican or more power in being a Democrat, there would be more Democrats and more Republicans, not just left-wing Democrats and right-wing Republicans. There would be more people, because they would carry their commitment, their dollars, and their time to a candidate through a political party, to a candidate that would be more responsive. That is a hard sell today, because most Americans do not feel represented by either party. So the idea that we ought to be giving them more authority is difficult to swallow.

I agree that the money chase is the problem. I have no question about the fact that the perception among Americans is that money influences this process. For that reason, I have felt so strongly that the elimination of PAC contributions is the only way to begin the process of genuine election law reform.

The Democratic proposal would not eliminate PAC contributions. It reduces them from $10,000 a cycle to $6,000 a cycle. As I said earlier, that only increases the money chase. It does not decrease it.

So, Mr. President, let there be no mistake about where this bill died and how it died. It died because the Democrat leadership, particularly in the House, did not know how to disconnect their political lifeblood from the special interests and political action committees. It did not die because the Republicans were unhappy, although they were. They did not like this bill, and they did not like any of us who supported it. But they did not kill this bill.

There could have been campaign finance reform. There could have been the kind that was bipartisan that came out of this body. But it was rejected by the Democratic leadership, not by the votes on the floor of the Senate today.

The thing that the House Democrats are most resisting is precisely the thing we must do. We need to put an end to PAC's. If that is not constitutionally viable, we need to reduce PAC's to a level no better than that of any ordinary constituent.

Obviously, my attitude on PAC's has changed over the last 5 years. I have come to conclude that we need to bring an end to PAC's in order to save this institution.

Senator MITCHELL said the other day, in announcing the end of the health care reform debate, that one of the obstacles to reform was the lack of trust of the American people in their Government in general and the Congress in particular. He is correct. The American people do not trust us in Congress to act in their best interests. That lack of trust arises from many sources.

But one of the major sources of that lack of trust is the stream of demagoguery that comes from this Chamber, from much of the media and from all kinds of self-appointed and self-interested groups who presume to speak with a moral monopoly.

We cannot take away their right to speak, no matter how false their words.

We cannot take away their hard evidence, because they have none.

So we must take away their flimsy evidence. We need to take away the special interest money.

When we get a PAC check it often carries the name and even the cause of the special interest right on the check. It is the committee to stop this or the committee to support that. I know that those checks to do not buy the results they seek. But they are sent to those whose judgment on a particular issue at certain times coincides with theirs. That is the poison in the well of politics. And as long as we accept the checks we leave ourselves open to the allegation. To end the allegation and the damage that it does, we need to stop the checks.

A PAC ban will not solve the problem completely. Those who are unwilling to accept the unpopularity of their policy preferences will find another scapegoat for their failure. I have no doubt that they have the ingenuity to do so.

And when they do, the Congress will have to deal with that.

But today we have PAC contributions. They are not destructive because they buy votes—they do not. They are destructive because they allow the rhetoric of the demagogues to come between this body and the people we represent.

I do not have much confidence that we will succeed this year. But before I leave I want the record to reflect why I think it is vitally important that we succeed eventually and that we do it right.

Mr. President, I ask unanimous consent to speak for 3 minutes on the Metzenbaum amendment to the D.C. appropriations bill.

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

BASEBALL

Mr. DURENBERGER. Mr. President, I come from Minnesota, the Minneapolis-St. Paul area, what used to be the home of the North Stars, almost was not the home of the Timberwolves, and I have what I might characterize as a personal and parochial interest in the proposal of my colleague from Ohio.

My State is what they call a small-market State—lots of people, if you stretch the geography all the way to Colorado, but not a lot of people if you are looking at a television market. We lost our NHL hockey team. We are close to losing our NBA franchise. We came real close and somebody rescued it and Lord knows how long it will last. The damage to my State, if we lose baseball to a large market, would be substantial. The amendment of the Senator from Ohio will make that much more likely.

Baseball has regulated itself for the protection of smaller markets, like the twin cities of Minneapolis-St. Paul, and the Senate ought to respect that process.

Although the Senator from Ohio may deny it, the enactment of his legislation would represent direct intervention by the Government in a private collective bargaining negotiation. Even worse, by passing this legislation, the Senate would be choosing sides in the very midst of a private labor dispute. This legislation is a significant precedent for every other union to seek the same special treatment now being sought for the major league baseball players by the Senator from Ohio.

Our system of labor-management relations has been built on the principle of free collective bargaining. That is, private labor disputes are best resolved by the Negotiations of voluntary agreements through good-faith bargaining by the parties to the dispute. Free collective bargaining is the principle theory behind not only the Norris-LaGuardia Act, but also the Wagner Act, and the Taft-Hartley Act as well as the labor provisions of the Clayton Act. Government intervention in the collective bargaining process is against the principles of free collective bargaining. Congress repeatedly has concluded that the Federal Government should not intervene in or dictate the resolution of private labor disputes. Even in areas of national security or national economic emergencies, such as railroad strikes, Congress has provided for substantial hurdles before the Government can intervene in the collective bargaining process.

The baseball players' strike is neither a national security threat nor a national economic emergency.

The proposal by the Senator from Ohio would change the existing law now available for all employers to implement a settlement after a bargaining impasse by denying this right only to the 28 owners of major league baseball teams. In a nation with millions of employers, this is the very epitome of special interest legislation. Even worse, the Senator from Ohio is proposing that the Senate enact this special interest legislation in the midst of an ongoing collective bargaining negotiation.

The Senate would be appalled if legislation were introduced to legislate away the employees' right to strike during the middle of a private collective bargaining dispute. Senators undoubtedly remember how the railroad unions have denounced Congress whenever it has legislated the end to one of their strikes under the national economic emergency provisions of the Railway Labor Act.

The same thing is true of airline strikes. Stripping away an employers' right to implement a settlement at impasse is the legal counterweight to the employees' well established right to strike. While we all miss baseball and wish that the players had elected to continue collective bargaining rather than striking, the cure of the Senator from Ohio would destroy the principle that private collective bargaining should be free from Government intervention.

The legislation of the Senator from Ohio attempts to give 750 major league baseball players more rights than those enjoyed by football, basketball, and hockey players and every other group of unionized employees in the Nation. The legislation provides that the antitrust laws "shall apply to any term or condition unilaterally implemented by the Major League Baseball owners." The Federal courts have held that the Federal Labor laws and not the antitrust laws apply to unilaterally implemented terms and conditions of employment as long as there is an ongoing collective bargaining relationship. As a result, the labor exemption to the antitrust laws, which governs all unionized employees and employers shields such terms and conditions from challenge by the antitrust laws. My colleague's legislation would strip the 28 major league baseball owners of the protection enjoyed by every other employer in the Nation, giving league baseball players far greater rights than any other group of unionized employees.

It is clear that the Senate should not insert itself into this private labor dispute nor should it choose sides in any labor disputes, as it would do so by favoring the players union with this special interest legislation.

Lets urge the owners and players to resolve their differences through the collective bargaining process and avoid rushing into something that undermines the principles of collective bargaining that have served this Nation so well for over 60 years.

Mr. President, I want to add a personal and parochial argument as well. My State has lost an NHL hockey team. We are close to losing an NBA team. The damage to my State if we lose baseball to a large market would be substantial. This amendment will make that more likely.

Baseball has regulated itself for the protection of smaller markets like the Twin Cities and the Senate ought to respect that process.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, before the Senator from Minnesota leaves the floor, I wish to say just one remark in summation.

It has been a great honor to serve in this body, where one has the opportunity to serve with persons of great moral and political strength. Of such persons I have known none such as he, the Senator from Minnesota, a man of perfect honor, an incredible capacity for listening and trying to reach solutions. He has graced this Chamber, and I hope we will not be without his advice or at least his prayers in the years to come.

Mr. DURENBERGER. Mr. President, I am most grateful to my colleague from New York, and I may say I will certainly see him on November 30 and December 1.

Mr. MOYNIHAN. That is right.

Mr. DURENBERGER. But on a subject near and dear to both of us, the income security of people of this country, including health care reform, I plan to be around as long he needs me. I am grateful to him for his comments and thank him very much.

The PRESIDING OFFICER. The Senator from New York.

THE GATT DEBATE

Mr. MOYNIHAN. Mr. President, I rise briefly but with great satisfaction to note that the majority leader has worked out with the Republican leader an agreement under which we will return on Wednesday, November 30, to take up the implementing legislation of the Uruguay round of the General Agreement on Tariffs and Trade. The next day, December 1, will conclude the 20 hours the statute provides. This will be a moment deserving of some notice by the American people.

Fifty years ago at the Bretton Woods Conference the allied nations gathered, recognizing that the economic failures of the peace treaty negotiated at the end of the First World War led directly to the Second World War, and thought to put in place three major institutions that would serve the purposes that had gone unserved with such disastrous consequences.

The first was the International Bank for Reconstruction and Development, which we know as the World Bank; the second was the International Monetary Fund—both headquartered here in Washington; and the third was to be the International Trade Organization. It was supposed to have its headquarters in Havana, as a matter of fact.

The first two institutions came into being. The third, the ITO, as it had come to be known, went down to defeat in no small part because of opposition in the Senate Finance Committee, and an informal arrangement was put together, the General Agreement on Tariffs and Trade, which refers not to an organization but just to a meeting that took place. And a British civil servant, Eric Wyndham-White, was recruited to be a kind of informal convener of these GATT conferences. And from time to time they have taken place, and some institutional structure has evolved.

Now, however, yesterday morning in the Finance Committee, by unanimous vote, we approved the implementing bill, including the proposal to establish a World Trade Organization, to be a real dispute settlement mechanism in trade matters. The disputes in trade matters of the 1930's were settled in the

79-059 O—97 Vol. 140 (Pt. 19) 27

Second World War. There are better ways for doing this, and also to facilitate the gradual opening of the world trading system, of which the largest event in history to date will be the Uruguay round.

The numbers are startling, Mr. President. We will see tariff cuts on U.S. exports of 40 percent worldwide, and in the European Union, Europe, 50 percent. That is a cut in the cost of American goods sold abroad.

It will be the largest tax cut, if you like, in the history of the world, $750 billion worldwide over a decade for American exports. It will be a $35 billion U.S. tax cut over the next 10 years. We buy imported goods, and why ought we not? You cannot trade if you do not trade back and forth.

It is not always remembered because we are so used to the income tax, but a tariff is a tax. Up until the income tax came into effect, under President Wilson in 1913, the majority of the revenues of the Federal Government came from tariffs.

The first bill enacted by the new Congress in 1789 and signed by the President, concerned the oath of office for the new Republic in a world where monarchy was the norm. And the second bill, among other things, imposed a 10-cent-a-gallon tariff on Jamaican rum. There was a whole list of tariffs by which revenue would be raised to manage our affairs.

We are going to cut those tariffs. It is a tax cut well deserved and welcomed because there is going to be an enormous increase in American exports.

The comment was made this morning that after the Tokyo round, signed in 1979, passed the U.S. Senate 90 to 4, the comment was made that U.S. jobs disappeared.

Jobs did not disappear. We have had the most extraordinary increase in jobs in the 15-year period since that I can recall. I do not want to be held to memory. But in 1979 there were 98.8 million persons in civilian employment. In 1993 that had grown nearly 21 million to 119.3 million. That is a solid 20 percent increase in a 15-year period.

I do not know where there has been such an increase at any other time. Possibly World War II would represent that. But that is a formidable growth in employment, not always at the wage levels we would like, but even so, I think we can look forward to more.

The Council of Economic Advisers does very much expect that we will see a $100-billion to $200-billion growth in the U.S. gross domestic product over the next 10 years as a consequence of the Uruguay round. There will be exports of manufactured goods sent overseas. There will be some losses as well.

But I would like to say, if I can, to the Senate and to you, Mr. President, that we need not be fearful of these things. It would be, oh, 30 years ago that the very distinguished economist, Ray Vernon, now at the Massachusetts Institute of Technology, described what he called the "trade cycle." It meant to apply to an advanced economy, but he had the most advanced economy then, as now, in mind, the American. He was talking about how when an invention takes place, a new product appears.

An automobile, for example. The internal combustion engine was developed in Europe, as well as here. But the first vast manufacture of automobiles was in the United States.

And following the appearance of a new product here, gradually that product begins to be exported abroad. Then you will find that it begins to be manufactured abroad. And then, in the last phase of the cycle, it will be exported from abroad and imported into the United States. That is fine, as long as in the meantime we are thinking up new things, as indeed we incredibly always are.

Just think of the phenomenon that now seems familiar to any of us, the fax machine, which is sort of replacing the telephone and the mail; just instant communications anywhere in the world, written documents. It did not exist 10 years ago, except in an experimental mode.

Think of the cellular telephone. We spend half our time in automobiles or walking around the parks on the telephone.

On the subject of trade, I spoke the other day with the chairman of the Kodak Co., George Fisher. I called him in his office in Rochester. He called me back from a parking lot in Cologne on a cellular phone. Again, a product that did not exist 10 years ago.

That trade cycle is normal, not to be feared; in fact, to be encouraged.

I do not think we could thank the majority leader nor the Republican leader too much for making it certain that we will have the GATT agreement approved by December 1. The President has our commitment on this. We have the votes. I repeat, the measure was reported out yesterday morning in the Finance Committee unanimously.

And as the President goes to the economic summit in Asia and then to the Americas summit in Miami in the next few months, he will go with the confident knowledge that the United States not only maintains its leadership in world trade but brings it to an ever greater culmination. The culmination of 60 years. I mentioned Bretton Woods 50 years ago. You can go back 10 years earlier to the reciprocal trade agreement program that Cordell Hull began under Franklin D. Roosevelt, and we learned a great lesson, a bitter lesson.

Mr. President, if you were to list five, say, arbitrarily, five events that led to the Second World War, that catastrophic war, well, the first would be the Versailles Treaty and what Lord Keynes called, in his pamphlet, the "economic consequences of the peace." They did not see that an economy the size of Germany needed to be allowed to expand and grow and be integrated into the existing economic system.

But after No. 1, the treaty at the end of World War I, the second event would be the Smoot-Hawley tariff. It took place on this floor in 1930. We raised tariffs to an average level of 60 percent. And, indeed, just as predicted by its advocates, we saw imports strapped by one-third in 2 years' time. But so were exports.

I had occasion to say in the caucus the other day, that if you like 50-cent wheat, you can get it again. Just go that route. That is what the Great Depression did to the farmers, much less to the merchant marine, to the manufacturers.

We do not have to have that now. We are turning away from that. Had we not gotten this agreement, the possibility of a European union building walls, the possibility of an Asian system of building walls, and us doing the same, following the practices of the 1930's.

But after Smoot-Hawley, the British went off free trade to Commonwealth Preference, the Japanese began the Asia Coprosperity Sphere, unemployment reached 30 percent in Germany, and Adolph Hitler came to power in a free election.

We have said no to all that. We have learned that lesson. And now we go forward.

I want to thank the majority leader for his persistence and his ingenuity in working this out. And I would like also to thank my friend Senator HOLLINGS for accommodating the Senate, exercising his rights under the law, but seeing, even so, that this matter will come to a final conclusion.

He and I go back a long way in these matters. I was one of the negotiators under President KENNEDY of the Long-term Cotton Textile Agreement, which enabled us to pass the Trade Expansion Act of 1962, which in turn resulted in the Kennedy round. We have not always agreed, but we have not always disagreed, either. He makes powerful points and he will make them in the coming debate.

But in the end, I would say there are 80 votes on this floor—for that matter, it might be 90. A great age of world trade is before us in which we move out of the simple tariff arrangement for goods and move into services, where the great majority of Americans are now employed, because we are at the advance, we are at the edge of the economies of the world. And now these services will be sold all over the world, just as intellectual property—trademarks, patents—will be protected.

I think we can look forward to a much better future for the whole of the world—a stable society, international

economy. We can now begin serious discussion of the admission to the world trading system, done under the General Agreement, of Russia and other members of the former Soviet Union, and of the People's Republic of China, as well.

Good news, and a good time to conclude our work here and get on with the other affairs of the Nation.

I thank the Chair. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The majority leader is recognized.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—MESSAGE FROM THE HOUSE

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 4649, the conference report accompanying the District of Columbia appropriations bill.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1995 or not later than 15 days after the last amount remaining in the fund is disbursed.

And

On page 13 line 9 of the House engrossed bill, H.R. 4649, strike the period at the end of the line.

Pending:

(1) Gramm Amendment No. 2585 (to House amendment to Senate amendment number 3), to strengthen the Violent Crime Control and Law Enforcement Act of 1994 by reducing the number of social programs and increasing the penalties for criminal activity.

(2) Cohen/Sasser Modified Amendment No. 2594 (to House amendment to Senate amendment number 6), to provide for enhanced penalties for health care fraud. (As modified, the amendment incorporates the provisions of Wofford Amendment No. 2595, listed below.)

(3) Domenici (for Dole) Amendment No. 2599 (to Amendment No. 2594), to provide for enhanced penalties for health care fraud.

The Senate resumed consideration of the message from the House.

Mr. MITCHELL. Mr. President, it is my understanding that the distinguished Senator from Ohio is ready.

AMENDMENT IN DISAGREEMENT TO THE AMENDMENT OF THE SENATE NO. 12

Mr. MITCHELL. Mr. President, it is my understanding the distinguished Senator from Ohio is ready to proceed with an amendment. I therefore ask that amendment No. 12 be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds than the capital projects fund and trust and agency funds."

AMENDMENT NO. 2601

Mr. METZENBAUM. Mr. President, on behalf of myself and Senator HATCH I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. HATCH, proposes an amendment (No. 2601) to the amendment of the House to the amendment of the Senate numbered 12 to H.R. 4649.

At the end of the amount add:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baseball Fans Protection Act of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to encourage serious negotiations between the major league baseball players and the owners of major league baseball;

(2) to prevent continued economic loss to individuals not involved in the negotiations whose livelihoods depend on baseball's being played;

(3) to prevent continued losses to communities that host major league baseball; and

(4) to preserve the remainder of the 1994 regular season, the 1994 playoffs and World Series, and the 1995 spring training season for the fans of baseball.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO MAJOR LEAGUE BASEBALL IN EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES.

The Clayton Act (15 U.S.C. 12 et. seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) IN GENERAL.—In the event that a unilateral term or condition is imposed by any party that has been subject to an agreement between the owners of major league baseball and the labor organization representing the players of major league baseball, the antitrust laws shall apply to that term or condition, and that term or condition may be challenged by any party to such agreement in any United States district court in a district in which 1 of the parties is doing business.

"(b) STAY OF CERTAIN TERMS AND CONDITIONS.—If, prior to the mutual adoption of agreements between the owners of major league baseball and the labor organization representing the players of major league baseball that replaces the agreements between the parties that expired on or after December 31, 1993, unilateral terms and conditions are imposed by any party to the prior agreement, and those terms and conditions are challenged in a court action in accordance with the provisions of subsection (a), the application of such unilaterally imposed terms and conditions shall be stayed until any such action is final, including any appellate review thereof, and the parties shall be bound by the terms and conditions of the agreements between the parties in effect on December 30, 1993 until such stay has expired.

"(c) DEFINITION.—In this section, 'term or condition' does not include a strike or a lockout.".

Mr. METZENBAUM. Mr. President, once again I am forced to address the issue of major league baseball's antitrust exemption, an exemption that has no rhyme nor reason to it and only one of two exemptions in the antitrust laws of this country—one having to do with the insurance industry that came about by reason of some very effective lobbying some years ago, and this one which came about by reason of a decision of Justice Oliver Wendell Holmes on the Supreme Court approximately 60 years ago.

As my colleagues know, I have fought against all exemptions to our Nation's competition laws, whether in the insurance industry, shipping industry, or professional baseball. As a matter of policy, I believe in the free enterprise system and that means that everyone—I do not mean just some, but I mean everyone—should abide by the same fair competition rules. This country's growth was based upon the free enterprise system and fair competition. What baseball has is not what other major sports have—basketball does not have it, hockey does not have it, football does not have it, soccer does not have it—but baseball has the exemption. The owners have taken advantage of that exemption in order to unilaterally attempt to impose working conditions on the players of baseball. Many would say players, they are not such great guys. They get very high salaries. I respect the fact that they get very high salaries. That is arguable, whether it is right or wrong, but it is not a decision for us to make. That is between the owners and the players.

But I know that when you impose on one side in a labor-management dispute, terms and conditions and you do it by reason of getting 28 owners together and agreeing that these are the terms that will be imposed upon them, there is something wrong and it is unfair. It is not right and it is something to which the Congress should be addressing itself.

I tried to strike major league baseball's total antitrust exemption but my colleagues on the Judiciary Committee were not prepared to challenge the baseball barons. Then, last spring when I saw that the 1994 season could end prematurely because of a major dispute, I modified my legislation to apply the antitrust laws only to matters affecting labor relations. I was very pleased and gratified that one of

the members on the Judiciary Committee who had voted against the repeal of the total exemption, Senator HATCH, came on board. And he joined with me in offering the amendment that is before us today.

I was afraid then if Congress did not act, the players would go on strike. Unfortunately, we were unable to move the bill through the Judiciary Committee and, as a consequence, there was a shutdown of the baseball season. Not only the shutdown of the baseball season but, I think, as we meet here, every American who has any interest in baseball has to be concerned as to whether or not there will be a new season in 1995, whether there will be spring training.

After this year's baseball season came to a crashing halt, I, frankly, modified my bill a second time. Senator HATCH and I have tried over and over again to bring this bill to a vote on the floor of the Senate in an effort to salvage the rest of the season and the World Series. We were thwarted in every instance. And then the owners announced that the season was over.

Despite the demise of this season, we have been determined to try to salvage next year's spring training and season. The players said if Congress passes the Metzenbaum-Hatch bill, they will go to spring training next season. And to my delight, what a fantastic action it was, that yesterday the House Judiciary Committee overwhelmingly, by voice vote, passed a similar bill to the one that is in the amendment that is at the desk at this moment.

I want to say to my good friends Congressman JACK BROOKS, chairman of the committee, and MIKE SYNAR, one of the leading members of that committee—they did yeomen work in getting that far in the House at this time.

Unless the owners and the players come to their senses soon, the only hope we have of resurrecting baseball as the Nation's favorite pastime is to pass legislation giving the players a chance to take their issue to the courts rather than to the streets.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I appreciate my colleague from Ohio. I, for one, will be sorry to see him go as he retires at the end of this year. We came to the Congress together and we have battled each other all these 18 years. I have tremendous respect for him.

I have to say on this issue he has certainly fought long and hard.

Over the last few weeks, there has been remarkable congressional progress on the legislation that Senator METZENBAUM and I introduced last month and the companion bill in the House, which was introduced by Congressmen SYNAR and BUNNING. It is clear that our colleagues are beginning to appreciate the importance of the legislation, and the devastating impact this labor dispute is having on baseball and on the millions of Americans who are fans or involved in the game.

I hope both sides in this dispute—the players and the owners—understand the significance of what is happening. The assumption that Congress will stay silent on baseball's antitrust exemption, that we will never question baseball's unique legal status, is no longer valid.

The House Judiciary Committee has passed legislation which, for the first time, limits baseball's antitrust exemption if the owners unilaterally impose terms and conditions on the players. If the Senate Judiciary Committee could hold a vote, I expect there would be a similar result.

It is also clear that there are too many procedural hurdles in these waning days of the session for legislation to pass this year. With only a handful of days left in the session, it is very easy for one Senator to block passage in this body, and there clearly are comparable problems in the House.

The real message today should be a wake-up call to baseball. If you do not want Congress to become involved, settle this dispute among yourselves. I hope the owners would send an important signal to Congress and to the fans that they will forgo their right to unilaterally impose terms and conditions after declaring an impasse in bargaining and settle their problems at the bargaining table.

That is what the distinguished Senator from Ohio and I have been trying to do. It would be the one way that they could indicate that they do intend to resolve this dispute through good faith bargaining.

Months ago, Senator METZENBAUM warned that unless Congress acted, the baseball season would be in jeopardy, that we could lose the World Series for the first time in 70 years. Unfortunately for the fans, he was absolutely right.

But this issue will not end with Senator METZENBAUM's retirement. If baseball does not end its destructive dispute before Congress reconvenes, we will be back on this issue next year, and I expect that Congress will be willing to take even more dramatic action than envisioned in our simple legislation here that would have given a level playing field to both sides.

The onus is now on both sides—the players and the owners—to fix their problems or Congress may be forced to become directly involved. There was no excuse for canceling the World Series, and there will be no excuse for destroying the 1995 season as well.

I think the American people deserve some consideration in this matter, and I urge both sides to get together.

I suggest to my dear colleague and friend from Ohio that he has made the case. His predictions have come true. This bill that we have would be a reasonable solution, but in this context, I urge him to withdraw the amendment, and I assure him that we will fight to resolve this problem early next year, either on this legislation or on a more stringent basis than this.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am very grateful to my colleague and friend from Utah for his suggestion, for his support. He did not vote with us in committee, but he has been a staunch supporter of the more modified amendment on the floor of the Senate. We worked closely together. When he makes a promise and pledge to move forward in the next session of the Congress, which I will not be in, it is certainly very significant. No question he is the ranking member of the Judiciary Committee. If some people on that side of the aisle have their way, he might even be the chairman of the Judiciary Committee, which I hope not, notwithstanding my friendship with him.

It is very significant that he makes that recommendation. There are a number of other Members of our colleagues who have indicated they want to come to the floor to be heard. I would like to check to see whether or not they do, indeed, want to come, what their views are. But I take very seriously his recommendation and particularly his recommendation with his pledge to move forward in this area in the next session of Congress.

VISIT TO THE SENATE BY MEMBERS OF THE RUSSIAN PARLIAMENT

Mr. MITCHELL. Mr. President and Members of the Senate, we are honored to have with us today several members of the Duma and the Federated Council of the Russian Parliament. They are being hosted by the distinguished chairman and ranking member of the Senate Armed Services Committee, Senator NUNN and Senator THURMOND.

I say to our colleagues from the Russian Parliament, in behalf of all Members of the United States Senate, we welcome you here today. We know that you have been having good and productive discussions with our colleagues in the Senate. We are pleased at the positive and encouraging results of the meeting this week between President Clinton and President Yeltsin, a summit which was marked by a common purpose and a desire for economic growth and prosperity and friendship in both countries. And so it is an appropriate time for your visit. We welcome you. We look forward to many more such visits in the future.

RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess for a period of 5 minutes to give Senators the opportunity to greet our colleagues from the Russian Parliament and that when the Senate reconvenes in 5 minutes, the Senator from Nebraska [Mr. EXON] be recognized.

There being no objection, the Senate, at 12:32 p.m., recessed until 12:37 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERREY).

Mr. METZENBAUM. I see my friend from Nebraska standing looking for recognition. May I inquire of him, I know at one point he indicated he wanted to offer a motion to table. I gather he has no intention of doing that at this moment.

Mr. EXON. The Senator is correct, I have no intention of doing that at this point.

Mr. METZENBAUM. I appreciate that. I just think we ought to see if other Members want to come to the floor.

Mr. EXON. Mr. President, I will be very pleased to answer the question properly put to me by the Senator from Ohio. As he knows, we have worked together on so many issues over the years. We do not happen to agree on this one, but there was an agreement made yesterday that when an amendment was offered by the Senator from Ohio, that I would oppose it. The amendment has been offered. I stand now in opposition to that and will cite briefly my reasons once again for being in opposition.

At an appropriate time, I do not think the Senator from Ohio wants to drag this out for any length of time, unless the amendment offered and presently pending before the Senate is withdrawn by the Senator from Ohio—and that is his right—I will offer a tabling motion, as I indicated and as we both understood on yesterday and the day before. I will simply ask, without losing my right to the floor, if the statement that I have just made completely agrees with the understanding that I had reached with my friend from Ohio?

Mr. METZENBAUM. My friend from Nebraska is correct. We will proceed to see if there are other Members who wish to be heard and then certainly the Senator from Nebraska would be within his rights to offer a motion to table. I appreciate his courtesy in not doing so, which he could do at this moment, but recognizes somebody else's wishes to be heard and giving them the opportunity.

Mr. EXON. I thank my friend from Ohio. Mr. President, again I am here today without charts and without baseball caps or other gimmicks attempting to bring some reasoned debate and, hopefully, a degree of logic as to why I believe that the Senate at this late date should refrain from any action whatsoever to involve itself in a labor dispute between baseball owners and baseball players.

The facts are as follows: First, tomorrow is the first day of October; second, the 1994 baseball season, for whatever reason and regardless of who is to blame, is over. It is kaput. It is football, hockey, and basketball time. Three, the effort to inappropriately involve the Congress in this labor dispute is tied to the last legislative train to leave the station, the DC appropriations bill, which is before us. It clearly does not belong on this measure because it is clearly, in my view, legislation on an appropriations bill. It is clearly legislation, therefore, that supposedly is against the rule.

Nonetheless, Mr. President, I thank my good friend—and I mean that more than just terminology. He is a good friend. He has been a great colleague over the years and I, for one, am going to miss him very, very much when we begin the new session of the Congress. The Senator from Ohio should be thanked, and I personally thank him for his usual excellence in the presentation of his position, as wrong as I think he is in this case.

This is the last chance for him to obtain a vote, if he wants it, on something that I recognize that he feels very strongly about. He has employed no gimmicks and, as is his forte, has argued his position very forthrightly and honorably. I just think that his position is wrong. He failed, as did his colleague from Utah who spoke a few moments ago, in his attempt to address this matter previously this year in the Senate Judiciary Committee, on which both of them have served very long and very admirably.

The Senator from Ohio should not be successful, in my view, today, anymore than he was successful previously. In fact, I would like to point out and hope that the Senate will agree that this should be tabled. It should be withdrawn and this is not the time to address it.

Mr. President, I emphasize again what I have said previously; that I am willing to consider in January, or sometime in that area, lifting the legislative exemption that baseball has from the antitrust laws. The Senator from Ohio has made many good points, however, as to why he thinks we should act now.

I emphasize once again that nothing whatsoever can be gained, in my view, by taking action now. This is not going to change anything, as it presently exists. There is not going to be any National or American League baseball in October, November, December, January, or February.

Mr. President, I am hopeful that before next March, the owners and the players will come to their senses by slugging it out among themselves and, by then, hopefully have come to a resolution of this matter. If not, we might—and I suggest and emphasize we might—at that time as a Congress feel that it is time to step in. I suggest that that action is now.

Mr. President, I would like to talk a little bit about the reason that I am very much upset both with the ownership and with the players in this whole thing. I am very fearful that both of them are looking at their own individual selfish interests and have kissed off the very loyal baseball fans and are simply saying to them, "You, Mr. and Mrs. Baseball Fan of America, will have to live by whatever we work out and whatever we choose to do."

Mr. President, I simply say and would remind all that of all the sporting events we have held in the United States over the years, traditionally baseball, because of the many games that are played and because it has permeated our society for a long, long time, is generally considered and thought to be a sport where mom and dad could take young Americans out to the game with them. I simply point out that in their seeking of profits, higher profits and higher salary, major league ownership and the major league baseball players seem unconcerned about that.

At the present time, Mr. President, the average price for all baseball tickets—average; that is, the bleachers and behind home plate and in the press boxes—they average $10.45 per person. The National Basketball Assocation has an average price of $27.12. The National Football League has an average price of $28.68. The National Hockey League has an average of $28.

I would simply add at this point, Mr. President, that those who have been following the sports pages recently recognize that probably tomorrow we are going to have a strike in the National Hockey League. Why is it that someone is not up in the Chamber saying, "Well, that is bad, that is wrong. We ought to move in and do something about that."

Mr. President, I happen to feel that at this juncture, because of the timing, as I have outlined previously in these remarks, we have no business as a Congress getting involved in this labor dispute at this juncture.

If we are going to go ahead, though, and allow forever major league ownership and major league players to have no consideration whatsoever for the fans, then we are going to see the downsizing, the lack of interest of what most of us have felt was our American pastime for a long, long time. How many moms and dads, Mr. President, in America today could afford to take their family of five to a National Football League game. It would be about $150.

It seems to me that not only do we have an obligation here, but the players and the owners of baseball have an obligation to slug out whatever their problems are and possibly the fans, for whom I think this Senator is trying to speak, had better send a message: A curse on both of your houses if you are not going to have any consideration for us.

The Senator from Minnesota earlier talked about the fact that he probably would be against lifting the antitrust laws because it would very likely be the end in the near future of the have-not baseball team moneywise, as is the case with the team in Minneapolis.

Mr. President, in addition to that, we are going to turn these people loose to locate their franchises wherever they want to locate them for the highest buck. We are also recognizing that the fans will continue to pay through the nose not only for the cost of their baseball ticket but through their taxes. We are going to throw this wide open in America to let the greedy ownership and the greedy players go about raising the prices more and more and higher and higher.

That is only part of the cost. You are also going to find that many cities, in the interest of economic development, are going to be bidding for all of these franchises that might become available. When they do that, the taxpayers, mom and dad that cannot hardly afford to take their family to a game today, are also going to be paying through the nose for increased taxes for brand new, magnificent, multimillion-dollar stadiums. After that is created, of course, you are going to have to have another multimillion-dollar parking garage that is going to be paid for by the taxpayers.

I think I simply would say, "A curse on all of their houses," Mr. President. They are interested only in money, m-o-n-e-y. As a dedicated baseball fan all my life, I am not only discouraged, but I am disgusted.

I will move at the appropriate time to table the amendment offered by the Senator from Ohio because I think we are involving ourselves in a labor dispute on the wrong piece of legislation at the wrong time. It would be much better for us to recognize that when we come back here after the first of the year, if the strike has not been settled, I would be at least acceptable to further consideration at that time.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by Senator METZENBAUM. Three months ago, I supported S. 500, which would have eliminated the antitrust exemption that major league baseball enjoys as it relates to labor issues. Unfortunately, that bill was narrowly defeated in the Senate Judiciary Committee, despite the argument that it might help to avoid the baseball strike which, of course, began a few weeks later.

Senator METZENBAUM now offers an even narrower amendment, which does not repeal the full antitrust exemption for the major leagues. Instead, the amendment simply applies the antitrust laws to any unilateral terms imposed in baseball labor negotiations in the absence of a contract.

I have had some skepticism about the ability of the antitrust laws to provide a magic bullet to resolve the current baseball labor dispute. However, I am encouraged by the willingness expressed by the players to end their strike if this amendment is adopted.

Mr. President, this limited amendment is not intended to and will not resolve the deeper problem of major league baseball not showing sufficient attention to its fans. Nonetheless, I believe this narrowly tailored amendment may have a desirable impact on the baseball strike and urge my colleagues to adopt it.

Mr. BRADLEY addressed the Chair.

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

Mr. BRADLEY. Mr. President, I want to talk from a personal perspective on the amendment that is before us. One should not mistake the fact that I did not play professional baseball. But I did play professional basketball, and for a number of years I was a depreciable asset.

I remember meeting with President Reagan at the time of the tax reform legislation when we cut tax rates and eliminated the loopholes. In fact, it changed the depreciation clause. At one point, I remarked to him, "Well, you know, we both come at this from different angles." He was an actor when tax rates were 90 and 95 percent. I was a depreciable asset. So tax reform brought us together by lowering the rates which he wanted in loosening up some of the loopholes, including the depreciable asset nature of professional athletes.

But I recall that one of my early substantive contacts with the U.S. Senate was in 1971 when the owners of the professional basketball teams, the owners of the NBA teams and then the ABA teams, sought an antitrust exemption from the Congress, an antitrust exemption that at that time was enjoyed by baseball. We testified in hearings as players opposed to the antitrust exemptions. We were opposed to the antitrust exemption because, in the world with the reserve clause, the existence of two leagues was—for the first time in the history of professional basketball, there was actually competition for player services.

At that time, the average player salary was about $9,500 a year when I came into the league in 1967. With competition, that, of course, increased dramatically. In fact, my wife suggested maybe I was born too soon, and I reminded her, "well, I might have been at a higher salary, but it might not have been here."

The point is that it is a situation where a player with an exemption to the antitrust laws at that time would have had no market in which to put his services. People used to come to me and say they thought it was outrageous that the players were making as much as they made, considerably more than I have made. My response was, "Well, if somebody is foolish enough to pay them the salary, this is America and the market determines the value of that service."

So I come to this particular amendment offered by Senator METZENBAUM, which I would support with that background, and to make the point relevant to baseball. In professional basketball, when I was there for 10 years, we never had a strike.

There was a threatened strike in 1965–66, in order to get recognition of the union, where players such as Wilt Chamberlain, Oscar Robertson, and Bill Russell sat in the locker room and would not go out to play the All-Star game until the union was recognized, so that the union could get things like second-class hotel rooms instead of third-class hotel rooms, a per diem of maybe $18 a day, and maybe travel in airplanes so that if you were in a three-seat transcontinental airplane, you would not be in the middle between some guy in 6A and 6C. Those are the things you fought for after it was recognized.

But we had no exemption. Therefore, when there was the reserve clause, we were able to pursue our remedy through the courts, and we commenced a lawsuit, the essence of which the argument was that the reserve clause was a violation of the antitrust laws. And through creative union leadership and creative management leadership, we were able to come to a settlement of that lawsuit, which eliminated the reserve clause.

In professional baseball, the players do not have that option. Because there is an exemption to the antitrust law for baseball, there is no judicial remedy for players. Therefore, they sit across the table from owners and they come to loggerheads and they come to a strike, and that is where we are today, where baseball fans across the country, including myself are saying, "I wish we were playing baseball and I wish we were preparing for the World Series."

I suggest that by eliminating this exemption, we would be placing baseball in the same relative position as the other league sports, and we would be allowing players to pursue their objectives through the judicial system, in addition to the bargaining table. I believe that is a proper course to take.

I have been against exemptions to antitrust laws for professional sports leagues since 1970, and so today I am against exemptions for professional sports to the antitrust laws. Some of my friends, who are owners, call and say, "Well, how can you do this now? This is the wrong time." And maybe this is the wrong time. I appreciate that this might not be the right time to push this amendment to a vote or to try to do this in the middle of a labor dispute. But there can be no doubt about the fact that the exemption itself cannot be justified.

Owners say, "Oh, well, what about our minor league teams?" Well, I think there is an answer to that question. But I suggest only that by passing this amendment, if it should come to a vote, we would be sending a signal that we want all sports leagues to be on the same footing, that we want players to have the same rights in baseball as they have in basketball or football, and that we believe that the exemption, which was really put into law in 1922, is really at this moment—the time has passed it by, and we need to recognize that professional sports is an element of commerce in this country just like virtually any other, and there is no overwhelming public justification for retaining this exemption.

Again, I kind of wish I was playing now, where the average salary is a little more than the $10,000 or $12,000 average salary it was when I was a player. But that should not cloud my judgment about what is the proper course to take here when it comes to eliminating this exemption for professional baseball.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, the Senator from New Jersey certainly was a national hero as a professional basketball player. I did not realize the extent of it until the other night when I was flying home. I was reading a novel, which was actually about a district attorney, but a good part of it was about Bill BRADLEY and his prowess as a basketball player. I must say I enjoyed it very, very much.

Mr. President, I rise today as the Senator from California, which is the proud home of the following major league professional baseball teams: The San Francisco Giants, the Oakland A's, the Los Angeles Dodgers, the San Diego Padres, and the California Angels. These five clubs are important to my State. Frankly, I want to keep them in California, Mr. President. That is the crux of my argument this afternoon.

Accordingly, I rise to underscore a conviction that I have held for a very long time—namely, that major league baseball's antitrust exemption must not be repealed or weakened. Accordingly, I will oppose—and urge my colleagues to oppose—the pending amendment.

There are two major ones to defeat this amendment, but before I detail them I want to elaborate on what the Senator from Nebraska was saying, and that is that the U.S. Congress has no business getting in the middle of a baseball strike. I would ask: Do the American people want us to get in the middle of a baseball strike? The answer would have to be an emphatic "No."

Two recent polls solidly support that view and I ask that they be printed in the RECORD at this point.

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

MAJOR LEAGUE BASEBALL POLL

SEPTEMBER 13–14, 1994

Do you think that there is a role for Government to play in bringing an end to the baseball strike?

	Percent
Yes	16.1
No	80.6
Don't know	3.3

Do you think that Congress should get more involved in the management of baseball?

	Percent
Yes	9.1
No	88.6
Don't know	2.2

Now that other sports have started, are you following the strike as closely as you were before, less closely, or not at all?

	Percent
As closely as before	28.3
Less closely	47.5
Not at all	23.6
Don't know	0.6

Do you look for articles about the strike when you read newspapers?

	Percent
Yes	34.5
No	61.1
Don't read a paper	4.1
Don't know	0.4

Do you strongly support, somewhat support, somewhat oppose, or strongly oppose a salary cap or placing a limit on the amount of money baseball teams can spend on players' salaries?

	Percent
Strongly support	53.2
Somewhat support	18.9
Somewhat oppose	10.0
Strongly oppose	12.9
Don't know	5.1

In the current Major League Baseball strike, which side do you think is more in the right—the owners or the players?

Owners	39
Players	22
Neither/both	15
Don't care about baseball	6

Source: New York Times, August 20, 1994.

Do you favor or oppose a salary cap for Major League Baseball?

	Percent
Favor	76
Oppose	17
Don't know	2

Source: Gallup poll, June 30, 1994.

Are Major League Baseball players paid too much?

	Percent
Too much	73
Too little	3
About right	18

Source: Time! CNN poll, August 22, 1994.

How do you feel about the Clinton administration intervening to settle a baseball strike?

	Percent
Oppose	72
Favor	24

Source: USA Today /CNN/ Gallup poll, August 11, 1994.

Mrs. FEINSTEIN. Mr. President, the first is a USA Today-CNN-Gallup Poll of August 11, in which the question was asked: "How do you feel about the Clinton administration intervening to settle a baseball strike?" Resoundingly, 72 percent of the people said they would oppose such intervention.

I also note a poll taken on September 13 and 14, which asks the question: "Do you think there is a role for Government to play in bringing an end to the baseball strike?" To this question, 80.6 percent of the American people said "No."

A second question: "Do you think that Congress should get more involved in the management of baseball?" To this question, 88 percent of the people said "No."

The intent of the pending amendment, namely to influence the ongoing baseball strike, is thus completely at odds with the overwhelming preference of the American public.

There are two other principal reasons, in my view, to oppose the pending measure. One of them is the public interest in preserving franchise stability, and the second is the equally strong need to assure that minor league baseball continues to be enjoyed by millions of Americans who live in small- and medium-sized towns across this country.

These are not just abstract policy or debating points, Mr. President. The spirit and cultural lives of 28 of the Nation's cities and the emotions and loyalties of tens of millions of fans are what this debate is about and why I have so strongly opposed efforts of the kind that are now being debated on the floor.

When I was mayor of San Francisco, home to two great professional sports teams—the San Francisco Giants in baseball, and the San Francisco 49ers in football—I can tell you firsthand that these franchises are not just economic concerns. They are living, breathing parts of the city's body politic.

Players and management alike are active parts of the community. They raise money for worthy causes, they serve as mentors and role models to countless young people, and they galvanize civic pride. I will never forget when the San Francisco 49ers won their first Super Bowl. Two million people lined the streets to cheer them as they came home. I will never forget that

day. I have never seen a community come together with such enormous civic pride. San Francisco's teams give, and continue to give, to their city in ways that other purely economic concerns cannot.

Moreover, the emotional ties and personal loyalties flow both ways. San Francisco's fans—and the same is true in hometowns all across this country—make their teams part of their lives on a daily basis. From organized tailgate parties on game day to impromptu water cooler conversations in offices days after the cheering is over, countless lives are enriched in countless ways by the symbiosis that defines a franchise and its fan.

Destroy that synergy and you destroy part of the community and part of each and every member of that community in a very real way.

That is what would have happened in San Francisco, in my view, in the mid-eighties had major league baseball's exemption from the antitrust laws not been upheld 72 years ago.

The San Francisco Giants had a better offer from Tampa Bay, FL, and they would have gone had not major league baseball denied them the ability to move, a decision based primarily on the strength and stability of fan support that had been built up over the years. It was that support, coupled with the League's legal ability to take it into account, that kept the Giants in San Francisco where millions of people have since seen them play.

Without the antitrust exemption, the league would have been powerless to veto the Giants' move to Tampa Bay, just as the National Football League—which has no such exemption—was powerless to stop the Oakland Raiders from being uprooted from one of the most loyal fan bases I know of in America.

No fans anywhere felt more passionately about their team than the fans of the East Bay area of San Francisco Bay area felt about the Oakland Raiders. The Raiders were torn from them and moved to Los Angeles just as the Baltimore Colts were moved—literally in the middle of the night—to Indiana.

Under the current antitrust exemption, baseball has not permitted a franchise to be relocated since the Washington Senators moved to Texas in 1972, 22 years ago. That compares over the same period to three football and three basketball franchise moves, and two hockey relocations.

So baseball has been stable and yet football and basketball have had these moves. It is baseball's antitrust exemption, I am convinced, that prevents clubs from seeking greater riches in a new city every time new opportunities present themselves.

That is why I joined 20 other mayors in 1985 in supporting a resolution by the U.S. Conference of Mayors opposing repeal of baseball's exemption.

That is why I testified before the Senate Judiciary Committee's Antitrust Subcommittee barely a month after being elected to the Senate, opposing changes to baseball's exemption.

That is why I voted with nine other Senators in the Senate Judiciary Committee this past June against an earlier version of the amendment before us.

And that is why I will vote against this amendment and urge other Senators to do the same.

Mr. President, I ask unanimous consent that my remarks before the Judiciary Committee be printed in the RECORD at the end of my remarks here today.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Thank you, Mr. President.

I would like to turn, secondly, to the issue of preserving the minor leagues.

The baseball antitrust exemption not only keeps major league franchises in the communities that care so deeply for them, but helps assure the survival of the more extensive minor league system as well. I do not know whether it is widely known, but currently 170 cities are home to minor league teams, 11 in California alone. In 1993, more than 1.35 million tickets were sold nationally to see them play, often at just $2 a seat.

Major league baseball is uniquely dependent on this so-called "farm team" system. Unlike major sports, whose new talent can be directly recruited out of college or even high school, young baseball players are just not ready for the major leagues. Indeed, only 4 out of 750 active players came to the majors straight from college.

Without an antitrust exemption, major league organizations could be forced to sever their unique agreements with minor league teams. Farm players would thus be able to change their team affiliation every year unless they were offered long-term contracts.

Because so few players ultimately ascend to the big leagues, such contracts would impose tremendous costs on teams, costs that could be controlled only by signing fewer prospects. Fewer contract players would, in turn, mean fewer teams and thus far less access to minor league baseball for millions of residents of small and medium-sized towns across America.

As a result, Stanley M. Brand, vice president of the National Association of Professional Baseball Leagues, confirmed yesterday that "the minor leagues remain unalterably opposed to this ill-conceived legislation."

Mr. President, I ask unanimous consent that Mr. Brand's statement be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mrs. FEINSTEIN. Mr. President, one final thought: As a matter of labor law policy, wholly independent of baseball or any other sport, Congress has no business, in my view, placing its heavy thumb on the scale in any pending labor dispute.

Significant and disappointing as the current baseball strike is, it does not jeopardize the Nation in the way, for example, that the steel strike in the middle of World War II did, or that various transportation shutdowns over the years have ground national commerce to a halt. Absent a national emergency of that magnitude, I feel strongly that this Congress should not take steps to intervene, or signal its future willingness to intervene, in ongoing labor actions.

In conclusion, Mr. President, I, too, am disappointed that the only baseball we have at this point in time is the marvelous Ken Burns documentary currently airing across the Nation.

"Inning Eight" of that series, shown locally in this area just the other night, brilliantly chronicled the effects of the loss of Dodgers on Brooklyn. Although Brooklyn's loss was Los Angeles' gain, I would not wish that pain, the real emotional pain, of that loss on the tens of millions of fans in any of the 28 cities now home to major league baseball.

I urge my colleagues to preclude that possibility by joining me in opposing this amendment.

I thank you, Mr. President.

I yield the floor.

EXHIBIT 1

STATEMENT OF SENATOR DIANNE FEINSTEIN BEFORE THE SENATE JUDICIARY COMMITTEE

Mr. Chairman, before I begin my statement, I would like to ask for unanimous consent to submit for the record the testimony of my colleague, Senator-elect Barbara Boxer, who has indicated that she wishes to associate herself with the comments I am about to make.

Now, I would like to introduce a number of leaders from California: San Francisco Mayor Frank Jordan, who has led the effort to keep the Giants in San Francisco; Jim Gonzalez, chair of the Finance Committee of the Board of Supervisors; and City Attorney Louise Renne, whose office has taken a forceful legal stand to see that San Francisco's legal rights are protected.

In testimony later this morning, Mayor Jordan will detail the integral relationship between the Giants and San Francisco and the steps that have been taken to keep this key 35-year resident of our city at home.

As a former Mayor and a new Senator from California, my objective here today is quite clear: without baseball's exemption from the antitrust laws, San Francisco could have lost the Giants. So, my choice is clear. I support the exemption.

Some will say the exemption should go and that baseball is a private business that should be freely subject to the marketplace. But in California we have seen what can happen in the free marketplace. Oakland, California, lost the Raiders in a devastating blow to thousands of diehard fans in a major American city.

Major League Baseball is more than just another business. It is deeply linked to the psyche and fabric of the American city.

Baseball requires stability to build fan support. Fans identify with their teams. This loyalty stretches over years, through changes in roster and management, and over the ups and downs of the win-loss column. Families have an opportunity to enjoy wholesome, relatively inexpensive entertainment. Young boys and girls play in little league games every afternoon, using the professional players as their role models.

For 35 years, the Giants have been part of the rich mosaic of San Francisco. The Giants have given us one of the greatest rivalries in baseball with the Los Angeles Dodgers, and this team has produced many of the greatest players of all time—including Willie Mays, Willie McCovey, Juan Marichal, Will Clark, and now—hopefully—Barry Bonds.

Fan clubs, communities, governments, and Chambers of Commerce all become deeply involved in supporting a team.

For example, in San Francisco, the Giants are exempted from an admissions tax. While I was Mayor, the city remodeled Candlestick Park building 110 luxury suites, improving concessions and restrooms, and expanding Candlestick's capacity by 10,000 seats. The city initially built the stadium with bond funds, and the Candlestick Park Fund contributed $30 million to its remodeling. The stadium is under the jurisdiction of the City and County's Recreation and Park Department. The field and stadium are maintained by the city. The city has a real interest in retaining the team.

Some are calling for the removal of baseball's anti-trust exemption saying that the sport is a private business engaged in interstate commerce and should be treated like any other business. However, no other private business is really comparable to a major sports franchise. In my view, major league sport franchises are a good deal different than any other corporate asset that can be sold willy nilly to any highest bidder. A major league sports franchise is not a product like a box of Tide that can be sold in a supermarket.

It is absolutely proper for the League to consider a number of factors when determining whether or not to approve the sale of a franchise.

Baseball should not be stripped of its ability to ensure that the owners are of good reputation, will keep team in America, and keep a good geographical spread to the organization.

The League has taken these steps to protect the city and fans of San Francisco when it rejected the proposal to sell the Giants to St. Petersburg after considering scheduling difficulties, media markets, divisional realignment issues, and fan support.

It makes no sense to me for this Congress to be involved in legislation that would permit the type of devastation that occurred in Oakland when the Raiders moved to Los Angeles and in Baltimore when the Colts were stolen in the darkness of the night from their fans.

In the end, Major League Baseball made a baseball decision and not simply a business decision. In my opinion, baseball cannot be faulted for making decisions in the best interests of the sport and in the best interests of the fans in Major League cities.

In conclusion, stability is not a new issue. In 1985, I joined more than 20 Mayors in supporting a resolution by the United States Conference of Mayors which supported S. 259—a measure that would have protected team stability. A copy of that resolution is attached.

I appear today to support baseball's antitrust exemption.

Again, Mr. Chairman and men of the committee, thank you for this opportunity.

EXHIBIT 2

NATIONAL ASSOCIATION OF PROFESSIONAL BASEBALL LEAGUES, INC.,
Washington, DC, September 29, 1994.

The language added to the Synar bill at the 11th hour in an attempt to protect the minor leagues is, unfortunately, fatally flawed and totally ineffective in saving the minors. Significantly, the language does not protect the amateur draft through which the minor league rosters are filled each year.

The rules governing the minor league players are inextricably intertwined with those regulating Major League players and therefore, it is impossible to predict how application of the antitrust laws under the Synar bill will negatively impact the minor leagues. Accordingly, the minor leagues remain unequivocally opposed to this ill-conceived legislation.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the distinguished Senator from Florida [Mr. MACK].

Mr. MACK. Mr. President, I, too, would reflect on the hours of Ken Burns' documentary on the history of baseball since the 1830's to 1850's.

Unfortunately, I did not have the time during last week to see most of those shows, but a number of my colleagues came up and told me about seeing my grandfather's picture and the story of his involvement in major league baseball, the founding of the American League in 1901, the forming of the Philadelphia Athletics in 1901, a team that he managed and eventually owned—managed for 50 years, the same town, the same team, for 50 years.

It was ironic, I think, that we were watching the Ken Burns documentary at a time when major league baseball is not being played and people do not have the opportunity to participate in the game. I thought it was also ironic that, as people told me about what they saw during those television shows about my grandfather, one of the situations involved his team from 1910 to 1914, where he won the pennant and the World Series a couple of times. At the end of 1914, he ended up having to sell the team off. Contrary to the popular opinion that he was just trying to make money by selling the players and keeping the money, the reality was he was dealing with competition. He was dealing with competition of an attempt to start a third league, a Federal league.

Now, I think there is a lesson here that even though he had to respond to this effort that was established to bring about a third league in which the industrialists of the period had tremendous resources, my grandfather's team survived. He sold that team off. They remained in Philadelphia. They were able to come back, and again in 1928, 1929, 1930, and 1931 I would probably claim that that was the best team in major league baseball history as opposed to the 1927 Yankees, but that is up for debate as well.

But again my interest in this issue really has been focused more as a result of the incident that was referred to by the Senator from California a little bit earlier, and I will get to that as I go through my comments.

Mr. President, throughout America, in a ritual renewed each spring, young boys and girls reach into closets, dust off well-worn baseball gloves, search frantically for that scuffed-up baseball from last summer, put on their favorite baseball cap, grip a bat, and dream.

It is a special season of the year when baseball fans—of all ages—shake away the doldrums of winter to relive great memories of America's pastime and create new ones.

For over 100 years, the game's greatest players have made the annual trip to Florida to share this tradition and to begin the long trip to the World Series.

Because there appears to be no end in sight for the baseball strike, spring training is in jeopardy. Spring in Florida without baseball will certainly have a sentimental impact but it will also result in a major economic blow.

Twenty of twenty-eight major league teams have their spring training in Florida.

According to the Orlando Sentinel, spring training games in Florida draw 1.6 million fans—with most coming from out-of-State.

The Orlando Sentinel also reported that spring training pumps $305 million a year into Florida, according to a study conducted by Florida's department of commerce. In that same article, it is stated that central Florida stands to lose $40 to $50 million if spring training is canceled. In Lakeland, FL, spring training home of the Detroit Tigers the Lakeland Chamber of Commerce estimates the Tigers generate about $18 million for the area economy.

What will February and March 1995 be like with no baseball? Will the fans make their annual sojourn to Florida if there is no spring training?

My State fears the worst.

The strike must be resolved so the millions of baseball fans in Florida and elsewhere can once again enjoy America's favorite pastime.

For some time now, baseball has been operating under a dark cloud. News has been dominated by the disarray in the business of baseball—the fight over salary negotiations and revenue sharing which has resulted in the current player strike; the firing of Commissioner Fay Vincent and the contrived inability to appoint a replacement; and, the underhanded blocking of a legitimate business deal to move a money-losing team to a better market.

My interest lies in the owners' 1992 decision to block a business agreement

between the owner of the San Francisco Giants and a Tampa Bay ownership group to purchase the team and move it to St. Petersburg. Before the agreement, Giant's owner Robert Lurie's efforts to keep the team in San Francisco had received little local support.

Let me focus a little bit on this timeframe.

My interests really became focused in an incident a little earlier than this transaction in San Francisco. If you remember, not long before that, the Seattle ball club was in trouble and the Seattle team had made the decision that they were going to move that franchise because they could not find a local ownership group.

For years, major league baseball has said that two of their major objectives are, one, to require that ownership of the team be held by local folks; and the second was, as has been indicated earlier, that they do not lose the teams. Well, here they were faced with a very difficult set of circumstances and a decision had to be made. Which were they going to give up?

What they decided was, they gave up on the determination that the ownership group must be dominated locally and they decided that their No. 1 concern was that franchises had to remain where they were.

Now what that did was it sent a signal to the rest of us who have an interest in trying to get major league baseball into our communities; that it is not going to happen until the owners decide that they are going to expand.

And let me make a second point here. The owners act as if the cities around the United States that are large enough and desirous of having major league baseball are not the markets of the cities and the fans but, in fact, are the markets of the owners of major league baseball and they will be used when they decide, not when the fans and the community decides that they ought to participate in major league baseball.

I just think that is fundamentally wrong. And, as Senator FEINSTEIN said earlier with respect to the San Francisco deal, Bob Lurie entered into a legitimate contract to sell his team—his team—to an ownership group in St. Petersburg and major league baseball, because of the exemption, denied him the right to sell that team to whom he wanted to and to move it to where the purchasing group wanted to move the team. And, in addition, that he had to sell that team for $15 million less than the St. Petersburg-Tampa ownership group was willing to pay for it. Now there is something fundamentally wrong when that takes place.

That is why I commend my colleague, Senator METZENBAUM, for his vigorous effort here to bring this issue before the U.S. Senate. I would prefer—and he knows this—that the issue we were debating were the full lifting of the exemption for major league baseball. But I understand the circumstances and I want to work with him to try to make this happen.

Yesterday, we received good news from the Judiciary Committee in the House that they at least were willing to move that out of the Judiciary Committee. It is a signal, I think, to all of us who are interested in this that clearly there is movement now on the issue of the antitrust exemption.

So I thank my colleague, Senator METZENBAUM, for his efforts.

I just have a point or two more that I want to make.

Seventy-two years ago, the Court, in Federal Baseball Club of Baltimore, Inc. versus National League of Professional Baseball Clubs, gave baseball immunity from antitrust laws because it considered the game a pastime and not the subject of interstate commerce. Since then, the Court has laid the responsibility of removing baseball's prized exemption squarely on Congress' shoulders.

The point I am making here was raised by the Senator from California. Why is the Congress involved in this? Well, frankly, I wish the Congress was not involved in it. But the Court made a decision 72 years ago and they said since then they are not going to readdress the issue; that Congress has to readdress the issue. And that is why we are involved in this discussion.

As many of my colleagues are aware, Senator METZENBAUM and I introduced legislation last year to repeal the antitrust exemption. The Metzenbaum-Hatch amendment represents a pared down version of the legislation we introduced and I intend to support this labor carve out.

I believe allowing the free market to work in baseball—without the legal shield of an outdated antitrust exemption—could mean more baseball in more cities for more fans and more kids to enjoy.

America was built on the principles of the free market system—given the owners clear capitalistic motives, I do not see why baseball should be any different.

Mr. President, I have a long family tradition in the game of baseball and I am proud of that. I love the game. I want to see it grow and I want to see it prosper.

Baseball must swiftly and earnestly address its problems before it is too late—before it completely loses the interest and faith of the American people.

Mrs. KASSEBAUM addressed the Chair.

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

Mrs. KASSEBAUM. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Ohio, because it places the U.S. Senate squarely in the middle of a private labor dispute between major league baseball owners and players. And I would suggest, moreover, that this amendment is not a panacea for baseball's labor problems or for baseball fans.

With the introduction of this amendment, we are hearing an interesting debate, beause we all care about baseball. It is a national pastime in America. And I think we all reflect back on memories that we have of baseball.

For me, it was growing up in the summer and my father sitting on the front porch listening to Harry Caray broadcast the St. Louis Cardinals. That was before the Kansas City Royals.

But I think we can all reflect in one way or another how baseball has touched us, and it certainly has come back for those who are watching the Ken Burns "Baseball" series.

Mr. President, this amendment is an unprecedented attempt to affect the outcome of the labor relations dispute between major league baseball owners and the union representing the baseball players. The amendment prevents the owners from unilaterally implementing their final bargaining position—a salary cap—by subjecting the salary cap to U.S. antitrust laws.

My colleagues should be aware that this amendment has nothing to do with the existing exclusive antitrust exemption that baseball now enjoys. Rather, the amendment would place one party in this dispute at a disadvantage that no other party—in any dispute—has ever been placed.

Mr. President, I think we are all saddened by the major league baseball strike. America's national pastime has been sidelined by a labor dispute between the baseball owners and the baseball players' union.

Most Americans have little patience for the situation. They want to see major league baseball, rather than a major league labor dispute. They want action.

But I oppose any congressional intervention in the baseball strike. For almost 60 years, our Federal labor policy has been to promote the private system of collective bargaining to resolve labor disputes. In fact, the preamble to the National Labor Relations Act of 1935 states:

> It is hereby declared to the policy of the United States to eliminate * * * certain * * * obstructions to the free flow of commerce * * * by encouraging the practice and procedure of collective bargaining * * *.

The collective bargaining system does not tip the scales for or against either side. It simply establishes a process for the parties peacefully to resolve their differences at the bargaining table. And if that fails, the system provides limited economic weapons—the strike, lockout, and unilateral imposition of the employer's final offer—for

the parties to utilize at their discretion.

The parties themselves must evaluate the relative strength of their positions. Congress has never established itself as the final arbiter of labor agreements, and for good reason.

We cannot and should not determine the respective bargaining positions of labor or management. That decision is theirs and theirs alone. Not even the National Labor Relations Board [NLRB], which has some expertise in labor law, has the capacity to do that.

Labor would be justifiably upset if we decided that their bargaining position was meritless. The union has a right to demand salary increases for players.

Similarly, baseball clubs have a right to insist upon a salary cap if they believe that fans will not pay higher ticket prices and clubs in smaller media markets cannot afford to pay higher player salaries.

Without doubt, the Metzenbaum amendment is designed to pressure major league baseball owners to capitulate to player demands. That is not the business of the Congress, any more than it is the business of Congress to order the players to cease their strike and to return to work.

I submit that the U.S. Senate should not influence a private labor dispute. Congressional intervention in labor matters sets a very dangerous precedent. Next time, perhaps it will be another sport, such as basketball, hockey, or football where Congress will be called upon to intervene.

And where will it end? Will other industries be coming to Congress asking for Federal intervention? I have no doubt that others will think it advantageous to lobby us to help resolve their labor disputes. And other industries, such as the construction industry, the trucking industry, or the meat packing industry, will find themselves on our doorstep. We should be careful not to put ourselves on this slippery slope.

After the players and the owners settle their labor dispute at the bargaining table, then perhaps Congress should debate repeal of baseball's antitrust exemption—not before.

My personal feeling is that if we carefully examined the antitrust exemption we would find that it serves an important national interest. As I am sure everyone in this Chamber knows, there is a significant relationship between major league baseball and the minor leagues system that benefits baseball fans everywhere. It is a relationship based on contractual and business agreements that depend upon the antitrust exemption.

Currently, major league teams subsidize their minor league affiliates to the tune of approximately $200 million per year. Major league teams pay the salaries and the signing bonuses of all minor league players and coaches; they pay for minor league equipment; and they pay for scouting services. This financial assistance is critical to many minor league clubs.

It is reasonable to assume that repeal of the antitrust exemption would jeopardize the structure and viability of minor league baseball—and that would certainly be a great loss for our country. After all, the vast majority of professional baseball is played at the minor league level. These teams are a source of civic pride for their communities and provide many fans from over 170 communities with their only opportunity to see live professional baseball. I know I have spent many enjoyable evenings watching the minor league team in Wichita play.

It has been argued by some of my colleagues that baseball should not retain an exemption that no other sport enjoys. But Mr. President, I think we would be wise to remember that no other sport has a minor league system similar to baseball's. It is a system that is important to rural and small communities across the United States, and I certainly hope we do not destroy it in our rush to try and settle the major league strike.

Mr. President, I would also point out that other sports that lack the antitrust exemption still have significant labor relations problems. Football, basketball, and hockey all have experienced strikes in the past and likely will experience strikes in the future. Ending baseball's antitrust exemption will not end labor disruptions in baseball, and the fans will continue to be disappointed regardless of the antitrust exemption.

If we were really interested in protecting the fans, then why not simply order the players back to work? The answer is that such congressional action would directly interfere with a private labor dispute on management's side by eliminating the players' right to strike, and that is equally unacceptable.

Mr. President, baseball fans such as myself want to see players back on the field. As a U.S. Senator, I encourage the players and owners to resolve their differences at the bargaining table, and not in Congress.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I want to express my appreciation and admiration to Senator METZENBAUM. We know that, to our regret and loss, this will be one of the last days that he will be with us on the floor of the U.S. Senate. HOWARD METZENBAUM is a unique human being, unique in his intellect, unique in his understanding of the range of people that he represents. I have been especially impressed with the passion of Senator METZENBAUM. When he engages in an issue he does so from a depth of genuine commitment. He does so with tenacity and, in most cases, with victory.

It is fitting that at this moment in his career that he again has taken the lance and is leading the charge on an issue which has deep significance to the soul of America. I thank Senator METZENBAUM for his leadership on this, and so many other issues, and wish him well.

Mr. METZENBAUM. I thank my colleague.

Mr. GRAHAM. As Senator METZENBAUM has so articulately stated, baseball is an important part of the culture of America. Many of us have spent hours in the last few days, watching the Ken Burns series on baseball. And, while it has reminded us of individual events, games, World Series, it has also underscored the fact that baseball in the American culture is more than just an individual series of athletic events, teams, and players.

It is an important part, in many ways a reflection of basic aspects of our national culture.

From the time immediately after the Civil War when baseball, which had been disseminated in many ways by the campfire games of the combatants, helped to bring the country back together to the times within our lifetime when baseball served as the leader in opening up opportunity in this country.

After almost a century of a gentlemen's agreement which had denied access to baseball to African-Americans, Jackie Robinson foreshadowed what was to come in the next few decades in terms of expanding opportunities.

So many of our most fundamental and deepest experiences as a nation are related to what has happened through baseball. Each of us can personally identify with this. One of the important aspects of baseball at a personal level is its intergenerational appeal. How many Americans cannot remember experiences with their parents, with brothers and sisters, with others close to them that began watching a baseball game?

I remember my father, who grew up in a small town in Michigan and was a long-time follower of the Detroit Tigers. Sitting in Briggs Stadium watching Hal Newhouser and George Kell, and those great players of the immediate postwar period were an immediate part of my life, illustrative of millions of other Americans who have, through baseball, broadened and deepened their understanding of their parents and now are transferring that to their children and grandchildren.

So as the question is asked, why here in the last days of this session of Congress with so many important issues before us are we spending time on this subject? I think it is because baseball plays a role in our Nation which is beyond what can be counted in terms of its economic contribution to our gross

national product, beyond the numbers of persons involved, beyond the immediate personalities in this current dispute.

Baseball is a fundamental part of and a reflection of fundamental aspects of the American character.

The antitrust exemption, Mr. President, also carries with it an important part of that reflection of the American character. The antitrust laws were established in and around shortly after the turn of the century as a statement that Americans believed in fair play. We did not believe in people who happened to have acquired significant economic power using that power in a coercive way, in a way which would deny others economic opportunity.

The history of antitrust and baseball is one which is linked to the saddest period of our national game. In 1919, the first and only time there was a throwing of a World Series, when the Chicago White Sox, eight players of that time succumbed to the temptation to take bribes in order to play less than at their full capability, and the result was that the Cincinnati Reds won the 1919 World Series.

It was around that time that players were tempted to do so, to accept those bribes because they felt that they were being treated as chattel; that their salaries were being unnecessarily restrained; that their efforts to establish alternative leagues, where their worth could be bargained for in the marketplace of real competition, had been frustrated. It was in that same period that players went to the courts seeking relief from the restraints on their economic mobility.

In 1922, the U.S. Supreme Court upheld a lower court's opinion that baseball was not subject to the antitrust exemption, not because Congress had granted it an exemption, but rather because baseball was not determined to be commerce, as the Court interpreted that word to be, rather that it was a series of exhibitions, not the business to which the antitrust exemption was applied.

It is significant that at the same time that the Supreme Court was upholding that lower opinion, that the man who had first ruled that the antitrust law did not apply to baseball was being designated as the first commissioner of baseball in order to bring some public confidence to a sport which had been savaged by the results of the 1919 World Series. That commissioner, Kenesaw Mountain Landis, brought a very strong principle of representing the public interest in baseball decisions; that baseball was the embodiment of the fact that it was more than just a business-economic relationship.

Throughout baseball, there has been this continuing tumultuous period of labor-management relations. It is not insignificant that there had been more labor stoppages in baseball, with its antitrust exemption, than in any other professional sport in America which operates without an antitrust exemption.

With that brief history, Mr. President, I would like to talk about a few of the questions that have been raised. One of the questions is, is it appropriate for Congress to be involved in this issue? Is this not an issue that should be left to the parties to resolve? The fact is the Congress was made a party to these disagreements by the action of the Supreme Court in 1922, when the Court said that we are going to place baseball in a protected status and not allow the forces of the free market, protected by the antitrust law, to operate as it relates to baseball.

We have been placed in this situation, Mr. President, because organized baseball for the first time since 1922 is now without a commissioner and, quite obviously, a determination has been made that it will not have a commissioner until there has been a completion of its efforts to change its labor-management relations. So whereas in previous disputes between players and owners, there was that third party, that party who carried the stamp of legitimacy from Commissioner Landis forward to step in, there is no such person today.

The purpose of this amendment is not to have Government get into dispute, but to get Government out of the dispute by treating baseball like other professional sports and like the vast majority of other commerce and business in the United States, and that is subject to the rules of fair play embodied in the antitrust exemption.

A second question is, should this be considered on the District of Columbia appropriations bill? Is there not a more appropriate forum for this consideration? I have listened to the statement made by the Senator from Minnesota and the Senator from California, two good friends, and I was struck by the irony of their comments about how much it means to the Twin Cities to have the Minnesota Twins and to San Francisco to have the San Francisco Giants. If my history is correct, the Minnesota Twins used to be the Washington Senators, before they moved from Washington to Minnesota.

The San Francisco Giants used to be the New York Giants, until they moved from New York to San Francisco. I remember one of those experiences of childhood. My high school graduation present from my father in 1955 was to take my first trip to New York City to see a series between the Brooklyn Dodgers and the New York Giants at the Polo Grounds. It is one of the jewels of my life, having been able to share those days with my dad watching these two great franchises, two of the original teams in the National League in that great inner-city rivalry.

Do we now dismiss the emotion of the people of New York and Brooklyn, people of Washington, DC, when they lost their franchises and elevate teams as they exist today to some pedestal of special purpose?

It is further ironic that after a period in which major league baseball encouraged, or at least acquiesced in, substantial franchise relocation, that now for a period of almost a quarter of a century, we have had no franchise relocation.

Major league's use of antitrust has restrained not only the movement of existing franchises but has restrained the development of additional franchises. My home State of Florida is proud to be the home to one of the two newest franchises in major league baseball, the Florida Marlins. It had been many years that we felt our State was prepared to be the home for one or more major league baseball teams, and yet we waited for decades in order to have that opportunity.

There is a very clear linkage between the antitrust exemption as it applies generically, and specifically as it applies to franchise relocation and establishment, and the antitrust exemption which is now being used in order to impose a settlement on players.

What is that linkage? The fact that franchises have not been established to serve markets that are prepared to support major league baseball. While franchises are retained through the use of the antitrust exemption in markets that are declining their ability to support major league baseball has resulted in a growing economic gap between the haves and have-nots of major league baseball. Major league baseball, particularly those smaller markets, is now calling upon the larger market partners for revenue sharing. That is not an unusual request. In the National Football League there is revenue sharing at the gate. There is revenue sharing among national television, and individual teams are not allowed to have their own local television arrangements. So there is a general parity in terms of the economic circumstances, whether it happens to be the Green Bay Packers or the New York Giants.

Baseball has not had that kind of a revenue sharing and even today has resisted that revenue sharing, particularly as it relates to local television revenue, which is the principal contribution to the wide economic gaps between the haves and have-nots.

What major league baseball is saying is that they want to have a form of revenue sharing financed by the players being forced to accept a cap on their salaries and thus a condition which in large part grew out of the application of the antitrust exemption to keep communities that were financially able to support teams from having teams has now been used at the end of this process in order to try to extract from

the players the cost of trying to maintain some parity between the have and the have-not franchises.

A third and final question, Mr. President, is timing. Why are we doing this now? Well, we should have done it years ago. Clearly, the fundamental rationale of the antitrust exemption has been unsubstantiated for decades. In the 1950's, in the case of Curt Flood, a great center fielder for the St. Louis Cardinals who refused to accept a trade to the Philadelphia Phillies and went to court, the U.S. Supreme Court ruled in his case that the rationale of the 1922 opinion no longer existed but that the Supreme Court, in deference to the principle of precedent and unwilling to overrule that 1922 case on its own, deferred to the Congress to take the steps necessary in order to apply the antitrust law to baseball.

We should have done it at that time. We should have done it this spring when Senator METZENBAUM brought before the Senate Judiciary Committee legislation that would have repealed the antitrust exemption. The fact is that we did it at neither of those two opportunities, nor many others that have existed in the recent past.

Now we face a strike of major league baseball that is of unprecedented proportions. Only once since the World Series started has there not been a World Series, in 1904, when a disagreement between the leagues caused no series to be held. Now, 90 years later, we are going to have the second example of no World Series for the baseball fans of America.

I anticipate that shortly after the leaves of fall have blown away, a fall devoid of this great classic, and the snows begin to fall, we are going to see the major league owners impose a cap on players' salaries arbitrarily, unilaterally. We are going to see the players' resolve to resist that heightened and thus we will see, in February of next year, instead of the pitchers and catchers coming to Florida and Arizona to start that ritual of spring as we prepare for another season, we will see the cold chill of winter continue. We will see no baseball in the spring. We will see no baseball in the summer of 1995.

I believe this is the time, before all of those bleak prospects become inevitable, that we take what I consider to be appropriate and restrained action. The resolution, the amendment as offered by the distinguished Senator from Ohio, simply states that in the event there is a unilateral term or condition imposed on any party that has been subject to an agreement between the owners of major league baseball and their labor organization, the antitrust laws shall apply to that term or condition and that that term or condition may be challenged by any party to such agreement in any United States district court.

I believe that is an appropriate statement of the fair play that we ask as part of the American culture. Baseball is a game which is played by the same rules, whether it is from the largest to the smallest, with the exception, I might say, with sadness, of such intrusions as the aluminum bat and the designated hitter. But with those exceptions, to which we all express our distress and sadness, baseball is a game played by common and fair rules across the land. Those same common and fair rules are another extension of baseball's reflection of American culture where we believe in fair play. Fair play says that persons should not be allowed to use their excessive economic power, I say to Senator ROCKEFELLER, to collude against the public interest, and that should be a principle that applies in all aspects of our American life. With the adoption of the amendment by Senator METZENBAUM, we will move towards the realization of that high standard in baseball and do it now.

Mr. President, I close by just returning to the remarks I made as I began my statement, and that is my deep appreciation to Senator METZENBAUM for having brought this issue to us at this hour. I admire his commitment and his tenacity. The Senator, unfortunately, will not be with us in 1995, but his spirit will live here. Whatever the result of his efforts this afternoon, I can assure the Senator, Senator HATCH and others, the leadership that he has provided will continue to inspire us, and eventually we will win that seventh game.

Mr. METZENBAUM. I thank my friend and colleague from Florida for his kind comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, let me say that we certainly have had an opportunity today to hear some great tributes to baseball. We all lament the fact that the season was not completed, especially me since I represent a State that has two teams that were doing well.

I think we all are saddened by the fact there is no World Series, but I think the bottom line of this whole debate is there is something more important than baseball. What is more important than baseball is freedom. What we have here is a blatant attempt at the end of the session to inject the Senate into a labor dispute.

We have a labor dispute underway in baseball. We have a decision that has been made by players and owners to end the season. We are all unhappy about it. We do not like it. But we live in a free country where labor has the right to decide to stop playing baseball and management has the right to end the season.

I am not going to get into a lengthy argument here about the antitrust exemption. It has been on the books for 72 years, since the Supreme Court decision in 1922, and it is going to be the law of the land when this Senate adjourns.

I can assure my colleagues that this amendment is not going to pass. I assume that the distinguished Senator from Ohio at some point, having had some fun today, having allowed us all to eulogize baseball, is going to withdraw this amendment. But if this amendment is not withdrawn, we are going to have other amendments offered to it, and we are going to have a prolonged debate because as strongly as I feel about baseball, I feel more strongly about freedom. I am not going to stand by and see our Government inject itself into this labor dispute, taking sides in a dispute where I do not believe—given that the dispute is underway, the strike is underway, the season has been canceled—that we ought to be injecting ourselves into that dispute.

This antitrust exemption repeal was debated in the committee of jurisdiction, and the Senator's amendment was rejected 7 to 10.

As I said earlier, I am not going to waste the time of my colleagues. I see we have several others here who want to speak. But I do not think today is the day to get into a debate about the antitrust exemption. Quite frankly, I think it is an open question.

I would be happy on another occasion when we are shooting with real bullets, when we are actually debating something that could be considered more thoroughly to listen to whether or not there should be an antitrust exemption in baseball. But in the midst of a strike where the clear objective here is to inject the Federal Government into the baseball dispute, I am adamantly opposed to it. I want to do everything I can do to see that does not happen.

It is not that baseball is not important. It is not that the people of my State did not have high hopes for our two teams. It is not that we do not want to see a World Series. But the point is there are some limits to the Federal Government's power. Having already messed up so much of American life, today we ought to leave baseball alone. It seems to me that baseball has enough problems of its own without the Federal Government jumping into the middle of a dispute.

So on that basis, Mr. President, let me say I am opposed to this amendment. I am open to a future debate about the antitrust exemption. I think it is something on which we should follow normal procedure. If in the next Congress an amendment is offered, I would be happy to look at the arguments to try to weigh the pros and cons. But here, today, on a Friday afternoon, 1 week from adjournment, I am adamantly opposed to the Federal Government jumping into a baseball strike.

I assume this amendment at some point is going to be taken down and we

are going to get on with other discussion. If it is not withdrawn, I am prepared to offer a second-degree amendment. But I am opposed to this amendment, and I do not plan to see it become the law of the land.

I yield the floor.

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

Mr. GRAMM. Yes.

Mr. METZENBAUM. Would the Senator from Texas be good enough to indicate the nature of the second-degree amendment?

Mr. GRAMM. It would overturn the Clinton Social Security tax.

Mr. METZENBAUM. I thank the Senator from Texas.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I rise in opposition to the amendment. I must say that I agree with the Senator from Texas that it is not advantageous or wise at this time during a labor dispute to take away an existing law that applies to baseball.

Quite frankly, I have some real reservations about baseball's antitrust exemption. I have expressed my concerns to and talked and consulted with the Senator from Ohio. Let me say about the Senator from Ohio that, indeed, he is doing this because he really believes in a fair market. Antitrust has been his legacy here, among others, whether it is big business, international corporations, or in this case the big business of sports. I appreciate that. Actually, I have learned a lot about antitrust by serving on the Judiciary Committee with the Senator from Ohio. So I have some feelings and understanding about his arguments and the need to address this issue.

I also feel that tipping the scale now by removing an antitrust exemption that is currently the law and that permits the owners to bargain in the manner they are bargaining, would not be appropriate.

Repealing existing law at this time disturbs me a great deal. I think we should be cautious about interfering in such labor strikes. There are some exceptions. Maybe baseball, some will contend, falls into that exception. The national urgency is, if you cannot get gasoline or coal or water or some necessity that is provided by the private sector because of a labor dispute, there are provisions in the law for the President to get involved. But that is not the case here.

I just do not see the justification to step in at this time. I do not know if it is the 11th hour or the 2nd hour of this dispute. There are problems on both sides. The owners have not, in my judgment, done what the owners in the other professional sports have done, such as pooling the resources from electronic media, mainly television. That is part of the argument about why almost half of their teams are losing money. To me that should be considered because that has worked in other professional sports. In baseball, you have teams that are literally losing money because they do not have the TV markets, they do not have the endorsements, they do not have the advertisers and they may go broke.

But if the owners really wanted to help the game, they would spread that revenue as the National Football League has done, for instance, and the basketball league has done through pooling of TV revenues. But the owners have decided not to do that. In addition, the owners have been, in my judgment, very stingy on expansion. I am glad to see that they have gotten the message. I must say I think the Senator from Ohio has been a messenger to them about that. If they do not expand, they will lose the support I think they currently have in this body not to take away their antitrust exemption.

But there is another side; that is, the players. Nobody can quantify the great baseball players that we have today, and missing watching those games, the playoffs, and then the World Series. It is a loss. We cannot put a money value, I do not think, on their talent. It is very difficult to do that. On the other hand, the players are not doing badly. As a matter of fact, the average salary of all professional baseball players in the major league is $1.2 million which is not too bad. That means some of them are making $20 million, $6 million, $12 million, and upwards of those figures.

(Mrs. FEINSTEIN assumed the chair.)

Mr. DECONCINI. Madam President, it seems that there is a problem on both sides here. I am sorry to say this to the owners and to the players. But, as a fan, I look at it as greed. Nobody seems to really want to put it together so that the fans benefit. They want to keep lining their pockets. They want to make money, and they really seem to have given up the purpose of what baseball is all about. It is the fans. They are the ones that are left out. As a fan, I am mad about it. I am upset, and I feel that it is unfair to the public, to us, and I think that we do need to address the problem.

I have introduced legislation. It does involve the Government deeply into this monopoly. It does provide for arbitration if there is an impasse in a labor dispute. It would require the owners and players to come together and settle their disputes. It would be binding arbitration because I think the best interests of the public would be served by such legislation. We are debating whether or not to lift the antitrust exemption that baseball has, the owners have, the league has.

I oppose this. I hope that the vote will be against lifting baseball's antitrust exemption at this time.

Mr. SIMPSON. Madam President, I want to say a few words on this amendment. First, my rich commendation to Senator HOWARD METZENBAUM for his tireless work on this issue. He has been very fair. He has certainly been attentive to my concerns. I think we all know of this man that when he sinks his teeth into an issue, he is dogged, passionate, determined, and he presses forward to the very end. But he is also fair and is a pleasure to work with. I shall miss the spirited camaraderie that I have shared with this man, and I mean that. I wish he and his wife, Shirley, well, as they go on to new pursuits. I know not what they will be, but they will be performed with passion and energy.

This is a tough issue for me and to come to this part. I have been interested from the time baseball's ownership unceremoniously sacked a most able and gracious commissioner, Fay Vincent, who had taken over for a beloved man, Bart Giamatti, who was just a unique jewel of a human, and then they left the game without a guiding hand to act in the interest of the fans. It is almost like: Is anybody paying attention to the fans? I can tell you that the owners, I think, in many ways, are not, and the players, in many ways, are surely not. So that has been my primary interest and my motivation from the beginning, to restore the office of the commissioner of baseball back to its former power and influence. I am truly regretful that it has not come to pass.

Unfortunately, from my perspective, there are so many who have interests in baseball's antitrust exemption for so many different reasons, though perfectly legitimate to me, and they are entirely different. Many stand to gain or to lose, depending on what we in the Congress do about the exemption. Some are interested in expansion; others in franchise relocation. Of course, both sides in the baseball negotiations have a stake in this. The players' union wants very much to see this antitrust exemption revoked so they can press their case in the courts instead of by striking. So, unavoidably, if we act on this legislation and we make explicit reference to "actions taken" or "conditions imposed" in the course of baseball's labor and negotiations, we become participants in this great struggle. I am uncomfortable with that. I do not believe that this is what baseball's fans would like to see.

So, for me, the issue is strictly one of whether or not baseball should have a commissioner, an independent commissioner, and whether baseball should be governed internally in a way that entitles it to a special legal status. I know fully where I stand. I am very happy to induce baseball to return to its traditional structures, but this is a different business. I am not certain that baseball's fans want us to say, "If one side

does this or the other side does that, then the antitrust exemption gets taken away," or any variant of that. I do not want to play around in that. I just want to see them get an independent commissioner. And I will push in any way I can, without trying to give one side an advantage over the other side.

I regret to say that I could not support this amendment. Its implications are very clear, and the players' union chief, Donald Fehr, said he would call off the strike in a New York minute if we only passed some legislation like this. Certainly most Americans and I and the occupant of the chair and all of us in this Chamber would like to see the strike end, especially as we approach the first of October. There is something about the first of October and a yearning for baseball and the World Series. Maybe that is some of the discord and anxiety in the land. But I do not think we should try and bring the strike to an end by offering a change in the law that has the effect of benefiting one side or the other. The players' union has made it very clear that this legislation would be a valuable tool for them, very valuable tool. I am simply not willing to step forward and hand a new tool to either side in this unseemly struggle.

It is ugly, it is greedy, and I am appalled at the owners, and I am appalled at the players. I would really like to smack them both around, but I do not know how to get that done. I almost feel that it is like in the great history of France where an arrogant observer in the royalty, who is uncaring of the citizens, says, "Let them eat cake." That is the way I feel about both sides in this one. Let them eat cake. For this reason, I will have to vote "no" on the amendment.

I thank the Chair.

Mr. ROCKEFELLER. Madam President, I, along with most people, am a baseball fan. I have been ever since I grew up in New York City and became a New York Giants baseball fan. When they moved to San Francisco things became tough for me, but I stayed with them until Willie McCovey retired, and then I was left without a baseball team. By that time, I had been living in West Virginia for a long time, and I became a "cable baby," so to speak, and have been an Atlanta Braves fan for the past 15 or 20 years.

None of that means anything, but it does in the sense that there are millions and millions of people in this country who work very hard and whose wages are not increasing and, in fact, are decreasing, and when they come home, one of the things they look forward to is baseball. Baseball is unlike any other game that I know of in that it has a rhythm and a sense of peace, a sense of throwback to an America that was more predictable, more dependable. It brings to the life of Americans a sense of tranquility and stability, which is hard to find in a country which is ravished by self-doubt and anger in these recent years.

So I think that the fact that there has been a baseball strike and the fact there have been a number of them in recent years is serious. I do not think it is just a matter of getting baseball going again. I think it has something to do with the American psyche. It has something to do with the American sense of well-being.

I am one who believes that if this strike is not settled it will continue into the 1995 season. There are no professional baseball teams at the major league level in my home State of West Virginia. We do have farm teams. I care about that. I do not want to see America move into the next year, 1995, without a settlement already in hand.

I have learned some lessons from the coal fields of West Virginia, as I am sure Senator METZENBAUM has, because they mine coal in the southern part of his State.

A very interesting lesson took place a number of years ago. It was basically during the seventies. And, Madam President, it happened that every time there was a dispute in the coal mines, there was a temporary restraining order, and people immediately went to the courts, but there was always labor instability, and it hurt our State. It hurt our self-image. It hurt our sense of moving forward.

But suddenly labor and management grew tired of this because it was hurting both of them, and they sat down in no particular formal agreement, and decided to work things out at what they called the face of the mine. That is where coal is actually mined, way underground. And if there was a dispute there between a worker and a foreman they would simply work it out at the face.

They found a period of tranquility in the coal mines of West Virginia wherein there was not a strike for years and years. One of the reasons that they were able to achieve this tranquility and achieve this type of stability was that they both had equal access and equal rights, they had equal powers, and they both knew that.

I think, by and large, in our society with different groups that have different points of view, when they know they have equal access to separate recourse or to the courts, knowing that they have those rights often in and of itself prevents problems that might arise because the other side knows that the other side has the same strength, the same accessibility to the courts.

Therefore, I am one who believes that the unique antitrust exemption which baseball has should be removed, and that, in fact, if it were removed baseball would come back, not this year, but it would certainly come back in 1995.

There is a feeling that owners make too much money and players make too much money. That is nothing that this Congress can change, because that is a matter of what the free market is and how people negotiate.

But the Supreme Court has said it will not decide whether lifting the antitrust exemption should be done or not and that Congress must decide the issue. So I think it is possible for me intellectually and logically to stand here and say that the fact that we are not doing anything as a Congress is in fact a part of the reason for the continuation of the strike.

The Court first back in 1922 ruled that baseball was not interstate commerce. The Court then later said that baseball was interstate commerce but, on the other hand, they were not going to decide to lift the antitrust exemption, that this is something which should be decided by Congress. I am not a lawyer and do not have all the details as to that. Congress decided not to decide, except Senator HOWARD METZENBAUM decided that Congress should decide, and over the years he persisted on this matter on the floor and in private conferences with many of us in the corridors of Congress.

I have been one who has stood back, saying that baseball problems would work their way through. I no longer share that point of view. I think we do have to intervene. I do think we have to create equality as between the two sides.

There is now inequality. Management has more recourse, more power, more ability to cause and stop events than do the players. And we are a country which prides ourselves on justice, on an equal and good relationship between labor and management, labor, and capital, however you want to put it. And I think it is long time past now that we act on this.

I happen to admire a fellow who writes for the Washington Post by the name of Tom Boswell. I have come to know him in recent months. I have talked to him a lot about this, and I think he has a very even point of view. He has helped me to understand and to believe what would happen if we were to repeal this exemption.

Even more, I happened to talk on this matter with the President several weeks ago encouraging him to intervene. Unfortunately, the very next day the owners declared that the season was over. There was not much that he could do.

But it was his view that if the President even said something so much as "I give you my full faith and credit that I will do everything I can to remove the antitrust exemption" the players would have gone back to playing baseball immediately, and this would have been several weeks ago and the season might not have been called off. The owners would have had to respond to

that and, in fact, there might have been negotiations and perhaps things would have been settled.

In any event, giving players equal right in the courts, I think, is a pretty basic American principle.

I met with a couple of major league baseball players yesterday. I was very impressed by them. I asked one of them a question. I made reference, I say to the Senator from Ohio, that when we deregulated, wrongly in my judgment, the airlines in this country, all of a sudden American Airlines, United Airlines, Eastern Airlines, all of which would fly into Charleston, WV, on a regular basis on many flights a day, they were all gone within 3 months.

I asked the players about how the amendment would affect fans in the State of West Virginia where we do not have major league baseball but we follow basically the Pittsburgh Pirates and the Cincinnati Reds, which are not big baseball markets in terms of megamarkets like New York and Los Angeles. Why would it not be if you were able to do whatever you wanted that you would simply go to Los Angeles or to the New York Yankees or to one of the rich teams and that there would be created more imbalance within our system?

And two of the players answered I thought very honestly. One of them said: "I cannot stand the east coast and the west coast, and I would not want to live there. I am from the heartland. I need to be with a team like Milwaukee, Pittsburgh, Cincinnati or Cleveland. I want to be in the heartland. That is where I am from. And my wife feels strongly about that. My kids feel strongly about that."

Another one said: "You know when you are looking as a free agent at where you are going to go you also look at the lineups of the teams that you might be considering. And it works out that if you are thinking you want to go to the New York Yankees or the Los Angeles Dodgers or the San Francisco Giants you look at the outfield and find they are very strong outfields. You do not want to go there because you are not going to play there. What you naturally want to do is go to a place where you are going to play and inherent in that is the idea of strengthening of teams which are now weaker either because they are in small markets and cannot afford to pay as much or because they just happen to be weaker."

I was struck by the honesty both of their answers and the way in which they gave their answer, which was very credible. One of the players is a very fine pitcher who is in his waning years and does not have a lot to gain by this, but he just spoke of his feeling that baseball players ought to have the same rights as owners have. I share that view. And that is why I am here on the floor to say that.

I think that the Metzenbaum-Hatch amendment is a limited, reasonable measure. I think it is something we ought to adopt.

I do not think the amendment, in fact, particularly takes sides, because nobody can say what it is that the courts will do if both sides have recourse to the courts, which I think they ought to have. It simply grants baseball players the same rights enjoyed by the coal miners in my State, the steel workers in the Senator from Ohio's State, and workers everywhere in this country. It is only in baseball that we have this particular situation.

Let us not be confronted by the idea of their salaries. I mean, we have that in show business, we have that on Wall Street in bonds and securities. People are often paid salaries that are out of proportion with what a reasonable person would say they ought to be paid. But the market decides that. The Congress cannot decide that.

But equal access to the courts we can decide. I think it is time that we allow that.

I urge my colleagues to support the Metzenbaum-Hatch amendment.

I thank the Presiding Officer and yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Madam President, the debate here this afternoon has been very gratifying to the Senator from Ohio, because when I came over I did not know whether anybody else was going to come over or have any interest in it. I am pleased that so many have come forward and indicated their concern and their support.

I was particularly impressed with the remarks of the Senator from Nebraska, who had come to the floor the other day when I brought up this same amendment and had indicated that at the appropriate time he would be prepared to move to table the amendment. He also indicated he opposed the amendment and would offer a tabling motion today if that were the case.

Before my colleague from West Virginia leaves the floor, let me just tell him how much I appreciate his comments, his inquiry that he made into this subject, and his incisive thinking. As usual, he has indicated what a stalwart and great Member of this body he is and a great friend of mine. I appreciate it.

The Senator from Nebraska was speaking and indicating his opposition to moving forward on this amendment at this point. But I thought that there were some particularly important words that he spoke. Let me repeat them. Said he:

> I am hopeful that before next March the owners and players will come to their senses by "slugging it out" among themselves. If not, we might then consider congressional action, but not now.

He went on to say:

> Mr. President, I emphasize again what I have said previously, that I am willing to consider in January whether we should lift the exemption baseball has from the antitrust laws. The Senator from Ohio has made some good points.

Now I thought that was important because this is a Member of this body who has been opposed to this amendment of Senator HATCH and myself, but has indicated that if the owners do not sit down with the players and work out something, then he is prepared to reevaluate and very possibly support the amendment.

Let me assure my colleagues that unless Congress acts to eliminate baseball's antitrust immunity, the owners will continue to abuse the players, the cities and the fans.

The owners do not give a damn. They are arrogant. They are rich. They think this is a great opportunity to show those players really what you can do if you have all the money in the world.

The cities are losing $1.6 million for every game that is canceled. Arizona and Florida will lose hundreds of millions of dollars if spring training is canceled by this strike or there is an owners lockout.

This problem will never be fixed until Congress revokes baseball's special antitrust privilege. If we do not do it today, we are putting the fans at risk of losing another season of baseball. Congress does not have to let that happen.

To those who are so smug about the franchises which they presently have—and let me say that we have two in Ohio and I am very proud of them and very proud of the teams, Cleveland and Cincinnati—but those in baseball who are the owners, who are saying that maybe we will change from having major league baseball, maybe we will just go to professional baseball, well, let me say to those cities that now have franchises, maybe you will not be so happy when you get some little league-big league team instead of a big league-big league team.

Now where are we at this moment? It is 2:30 on a Friday afternoon. A number of our colleagues have probably left for the weekend. My colleagues from the House have informed me that there is not enough time left in this session to move the baseball antitrust bill to a floor vote.

They did yeoman work—yeoman work—by passing it out of committee yesterday, and I congratulate them.

I must say that I am just totally delighted that so many of my colleagues in the Senate have joined me today and are committed to passing this legislation next year if the strike is not over.

With the leadership of people like Senators HATCH, SIMPSON, BRADLEY, THURMOND, GRAHAM, MACK, and ROCKEFELLER, it is a pretty loud and clear

message that there is not just one Member of this Senate that is determined to move forward, but there are many others who are determined to move forward, whether or not I am in this body.

I am comfortable and feel good that my antitrust bill will be left in good hands. It will be left in the hands of those people who understand the implications of what management has done as far as the players are concerned.

It is not a one-sided issue. The players are not all totally right, and I am not prepared to totally side with them with respect to all the issues.

But I had a lifetime career of being involved in labor-management relations. I was a labor union lawyer, represented many unions. And I was a corporate executive in three companies, one on the New York Stock Exchange, one on the American, and one on the over-the-counter market. So I think I understand the forces that are involved with respect to management and labor.

But I believe that it is unrealistic—no, I do not believe it is unrealistic, I know it is unrealistic to think that we can pass this amendment, particularly in view of the fact that the Senator from Texas, Senator GRAMM, has indicated that he is prepared to offer a second-degree amendment to our amendment, the amendment of Senator HATCH and myself. And Senator GRAMM's second-degree amendment, according to him, would overturn what he calls the Clinton Social Security tax.

Now I have to tell you, I do not know what he is talking about. I asked a few other Members and they do not seem to know what he is talking about.

But, suffice it to say that the Senator from Texas is in a position to do mischief and certainly tie up the Senate for a good many days ahead of us.

The Senator from Utah, who has been my colleague in pushing this amendment on the floor, has indicated that he will take a leadership role with respect to the repeal of the antitrust exemption come next year. I have much confidence in him. He is an able Member of this body. He is a determined Member of this body, and he will fight for what he says he will.

Under those circumstances, I would find it foolhardy on my part to go forward, in view of the fact that the Senator from Texas will be offering a second-degree amendment. I am also aware of the fact that the House is not prepared to complete action on this measure.

I think the owners ought to get the message that Congress is prepared to act when we return in January if they are not prepared to sit down with the players and work out their differences.

Under those circumstances, I withdraw the amendment and yield the floor.

The PRESIDING OFFICER. The amendment is withdrawn.

Who seeks recognition? The Senator from Indiana is recognized.

Mr. COATS. Madam President, I am pleased the Senator from Ohio has decided to withdraw this amendment. I think he has raised legitimate questions, questions that this Congress, perhaps, should at least examine. But I do not believe it is in the best interests of baseball or in the best interests of the U.S. Congress to move forward with a legislative solution to the impasse that currently exists between the owners and the players of major league baseball.

We were all, of course, disappointed that the fundamental issues that divide the players and the owners were not resolved during the season so that the season could conclude. We were all disappointed that the World Series and the playoffs could not be conducted. And I think we all hope that this impasse can be resolved before the next season begins. But for Congress to rush to judgment in its waning days and hours of this 103d Congress and attempt to impose a legislative solution to what ought to be a collective-bargaining process, I think would be inappropriate and ill-advised. It perhaps could set precedents in terms of other labor disputes that we would come to regret.

So the Senator from Ohio's decision to withdraw this particular amendment at this particular time I think is a prudent decision. I think it is with only the greatest of national interests at stake that the Congress should make an effort to settle what has otherwise been left to the parties involved. We should intervene only with great reluctance. We should intervene only when great national interests are at stake. And, while we all take pride in claiming baseball as a unique national interest, it is certainly not the kind of national interest that I believe justifies our intervention.

Having said that, I hope the players, and particularly the owners involved in this dispute, would recognize that we are dealing with something almost unique; that is, the antitrust exemption granted to major league baseball. That, I believe, puts a special responsibility on the shoulders of the owners and the recipients of that antitrust exemption. And that requires they negotiate in good faith in attempting to settle this dispute.

By the same token, I do not believe that under the emotion of the moment, in the waning hours of the Congress, that we should overturn something that has worked relatively well. Baseball, obviously, is in a season of major changes, as it has been over the past decade or decade and a half. But there are sound arguments on both sides of this question, and I, for one, want to hear those arguments and think them through carefully. I want to have a thorough process of examination if we are to move forward with a legislative remedy, or even consider a legislative remedy.

Obviously, the best solution to all of this is for both sides to sit down in good faith and bargain together and resolve the issue before the next Congress convenes. The last thing I want to see and the last thing, I hope, that my colleagues would want to see, is the Congress plunged into the middle of a dispute that ought to be settled in a collective-bargaining way between the parties involved. I hope we do not come back in January faced with this issue and involve ourselves in this process. We have some months ahead now in order to settle this. It is clear we are not going to salvage this season. Let us hope the parties involved can, in their own interests but particularly in the interests of fans all across this country, resolve this matter in an equitable way. Frankly, there is enough money to go around to satisfy both sides.

We do need to be cognizant of the fact that large markets and small markets create a major problem for major league baseball and that there has to be some equity between the clubs in order to promote, in the long run, not only a competitive situation within the leagues, but also to provide some protection for the smaller markets who, I believe, deserve a chance to have a baseball club represent their community and with some assurance that there will be stability in the process.

So, having said that just very briefly, deliberately trying not to get involved in the issues themselves, let me thank the Senator from Ohio for his willingness to withdraw this amendment. Let us just hope we can urge, effectively, both sides of this issue to resolve their differences so that at the beginning of spring training in February 1995, we will once again hear two of the most important and inspiring words in the American system: Play ball.

I yield the floor, and, Madam 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

CONGRESSIONAL ROLE IN HAITI

Mr. BYRD. Mr. President, these are dangerous days for our troops in Haiti. Today is the third anniversary of the coup d'etat that supplanted the elected Government of Haiti, and massive demonstrations are expected. The climate

of violence is obvious to anyone who watched television news reports yesterday and this morning. As was amply demonstrated just yesterday, when a grenade or other explosive device was tossed into a group of Aristide supporters, killing at least five Haitians and wounding many more, there is the potential for the demonstrations today to erupt into Haitian-on-Haitian violence. And United States troops could very easily get caught in the middle by acting, as they are, as the guarantors of President Aristide's return and as the only civil police force for large areas of Haiti.

This has always been my greatest concern regarding Haiti, that United States forces on the ground could again, as they did so tragically in Somalia, become prize targets for the Haitian military and other opponents to the intervention and to President Aristide's return. Today, tensions could rise to a flashpoint. October 15th could be another flashpoint, as are dates linked to the departure of the military junta, to legislative campaigns, and to legislative elections. I raised these concerns with the President in a meeting over two months ago and expressed my opposition to an invasion of Haiti. I believed then, as I believe now, that a United States military intervention in Haiti is an extremely risky proposition, with a dangerous potential to expand into a difficult and lengthy exercise in nation-building.

Although an invasion, as such, did not occur, almost 20,000 U.S. troops are now on the ground in this risk-filled environment. And according to the Pentagon spokesman, that number may rise, despite earlier assurances that only 15,000 troops would be needed and that those numbers would rapidly decrease. I believe that the Congress has a responsibility to those troops, and a responsibility to the Constitution—which we swore an oath to support and defend—we have a responsibility to weigh in on this issue. We were not in on the takeoff, but we are not without responsibility and recourse. I firmly believe that we ought to establish an end date for this operation, with a funding cutoff. I cursorily outlined my views on this issue yesterday on this floor when I suggested that February 15, 1995, was a reasonable end date for this operation. But, I am not at all tied to that date, and may very well support an earlier one. I would prefer an earlier, rather than a later, date for the end of this operation.

Anything less than a cutoff of funds for this operation is inadequate, an abdication of Congress' role with respect to the power of the purse and the constitutionally mandated role in raising and supporting armies and providing and maintaining a navy.

James Madison stated,

> Those who are to conduct a war cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

This Congress is charged by the Constitution with the very great responsibility of making those determinations, of whether a war ought to be commenced, continued, or concluded, just as it is charged with the responsibility of raising and supporting armies and providing and maintaining a navy. Although this is not a war in the sense of the constitutional phrase, "to declare war," this Congress has a responsibility to act on this issue, because it is a very volatile environment in which American fighting men and women are potentially the target of actions as deadly as in an all-out shooting war. And, through the power of the purse, this Congress has the means, and indeed the solemn duty, to enforce its judgment.

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. GORTON. 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. GORTON. Mr. President, I ask unanimous consent to speak as in morning business.

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

LOCAL CONTROL OVER SCHOOL VIOLENCE

Mr. GORTON. Mr. President, I am deeply disturbed—I think I can appropriately say outraged—that the Gorton-Lieberman local control over school violence amendment, which was passed, after a day-long debate by this Senate, by a vote of 60-40, with strong bipartisan support and with support from five major national education associations, was stricken from the bill, the Improving America's Schools Act during the course of a conference committee with the House of Representatives. And, of course, it was passed by the House of Representatives without that amendment being a part of it.

Time and time again, I have had the opportunity, with other Members of this body, to come before my fellow Senators to speak and fight to protect our students from the violence that is tearing our society apart and is literally destroying educational opportunities for thousands of America's young people.

On two separate occasions now, the Senate has adopted amendments, of which I have been a sponsor, dealing with school violence. But, again, the conferees on the part of the Senate have retreated from language passed by the Senate, ignored the wishes of the majority of the body, and have stricken this effective language during conference committees. The bipartisan fight for school safety, in other words, has been simply ignored.

This time, the amendment was replaced with a watered down version that may actually exacerbate the discipline problems our local school officials on the front line experience each and every school day. Educators across the country actively supported the language. The language accepted by the conferees, on the other hand, simply directs the Secretary of Education to disseminate widely the current policy on disciplining children with disabilities and directs the Secretary to collect data on the incidence of disabled children engaging in life-threatening behavior or bringing weapons to school and report to Congress by the end of January of next year. It will, of course, do nothing about violence in the schools during this entire school year, at the very least.

In addition, the act as passed defines the term "weapon" as it is in the Gun-free Schools Act. The new definition is:

> Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or any destructive device which includes any explosive, incendiary or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce.

Fundamentally, this watered down language that the conferees included not only strikes the important life threatening behavior clause, which in turn was defined with a great deal of caution, as it is under the guidelines for the sentencing commission for those who are to go to prison, but the language now in the bill also focuses solely on guns. What about knives? What about other weapons that can maim or kill our students at schools?

I must say that I find this action hard to comprehend. Do the members of the conference committee really believe that guns are the only problems relating to discipline in our schools? Do they not realize that guns are only a part of the problem and truly violent life threatening behavior is also a serious problem and that other weapons are also serious problems? Why did they neglect the pressing safety problems in our Nation's schools today? How many more destructive incidents have to take place before real action is taken by the Congress?

Mr. President, no student whether or not he or she is defined as disabled, has the right to bring a dangerous weapon into a classroom or a school or a school-sponsored event, nor should any student be able to engage in life-threatening behavior in the classroom or in school without appropriate disciplinary action being taken. This type

of behavior is totally destructive to the learning environment of all of our children and must not be tolerated. Our school authorities have to be the ultimate repository of authority to deal with these questions in their own schools. In spite of the overwhelming logic of this position, the conferees dropped this crucial language.

With the constant increase of violent incidents in our schools, our educators, our teachers, our administrators, our school board members, must be able to take reasonable measures to protect students and teachers and other school personnel from bodily harm while at the same time, of course, meeting the needs of children with disabilities for a free appropriate public education. The amendment that the distinguished Senator from Connecticut and I offered and had accepted by this body was a first step toward increasing the safety of all students in our public schools.

That amendment, as I have already said, was endorsed by five national educational associations. In addition to that, there was strong support from the educational community in Washington State where the push for this amendment is widespread.

I received the support of the Washington Association of School Principals, the Washington School Directors Association, the Washington State PTA, the Committee for the Right to Keep and Bear Arms, and several school districts.

Violent and disruptive students who prevent others from learning cannot be disciplined effectively by reason of Federal rules and the fear of lawsuits. Educators must have restored to them the authority to address the problems of violent and criminal behavior in their schools. They must be able to restore discipline and reduce violence both in our schools and in our communities. The amendment proposed to do just exactly that. It regained the control of our classrooms and returned the authority to school officials to address serious disciplinary problems and to be able to do their own jobs of educating our children.

Today, our educational system by reason of Federal law provides a dual system of discipline. Some students who are involved in bringing dangerous weapons to class or who demonstrate life-threatening behavior are properly disciplined under the authority of school districts, and others are not. It is destructive and discriminatory to have one set of rules for regular students and another for special education students protected under the Individuals With Disabilities Education Act. The message this sends is obviously both unclear and unfair to all students.

The section of our amendment addressing the Individuals With Disabilities Act made it permissible immediately to remove a student who brings to a school or a school-sponsored event a weapon that violates school policies. It also allowed the removal of a student who has demonstrated life-threatening behavior in the classroom or on school premises. It required that any such child be moved and put into an interim alternative setting for up to 90 days until a final decision could be reached. If parents called for a due process hearing, the child would stay in the interim placement rather than in the classroom during the course of that hearing in order to prevent further disruptions. That would have provided our teachers and the school districts much-needed local disciplinary control.

Instead, the language that was accepted by the conferees removes the life-threatening behavior language completely and solely concentrated on guns. In addition to the study it calls for, it allows a student protected under IDEA to be removed from the main classroom and placed in an interim placement for only 45 days, half of the previous period.

This watered down language does very little to address the problems of our Nation's schools today. Weapons, other than guns, are prevalent on school grounds, and extremely violent outbursts are occurring in the classrooms with increasing frequency. The Education Committee conferees had a chance to increase the safety and protect our children in the schools by incorporating the Gorton-Lieberman amendment. Instead, they watered down one of the few amendments in the education bill that actually would have improved our Nation's schools.

I am disappointed, I am disgusted, I am outraged that this language that would actually make it safer to walk in the halls and to study in the rooms of our Nation's schools was stripped from the bill. It was as important to me as the rest of the bill. No student can learn in an environment plagued with fear and violence. No student should ever have to do so.

I believe firmly that this seriously weakens the entire bill and raises significantly the question as to whether or not this subject should go over to the next Congress, at which time I am convinced public demand for safe schools would cause an amendment of this sort to be a part of any bill dealing with the education of our students.

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.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that my remarks be delivered as if in executive session.

The PRESIDING OFFICER (Mr. MATHEWS). Is there objection?

The Chair hears none. It is so ordered. The Senator from Texas is recognized.

OPPOSING CONSIDERATION OF THE CONVENTION ON BIO-DIVERSITY

Mrs. HUTCHISON. Mr. President, on August 5, 35 Senators signed a letter to the majority leader regarding consideration by the Senate of the Convention on Bio-Diversity. The letter requested that the Senate delay consideration of the treaty until our concerns were addressed. These concerns remain, but it appears that the majority leader intends to bring up the treaty before adjournment.

Under the treaty, a conference of parties will meet after the treaty is in force to negotiate the details of the treaty. We need to know how the Senate, in fulfilling its constitutional responsibilities to concur in treaties, can review the provisions of a treaty that will not be written until the meeting of the conference of parties. As Senators HELMS, PRESSLER, and COVERDELL stated in the committee report on this Bio-Diversity Treaty.

> The financing mechanism, the degree to which intellectual property is protected, the definitions of developed and developing states, the voting weights and procedures for member states: all of these and other important matters are left undecided.

Moreover, the convention and resolution of ratification do not require that protocols or amendments developed by the conference of parties that are signed by the President be submitted to the Senate for ratification. Protocols are being drafted for the November conference that we have not had a chance to review and will not have the opportunity to approve. We are sworn to uphold the Constitution. We cannot delegate that duty with a blank check to an international body, or to the President.

We need to know why the treaty prohibits countries from making reservations from agreeing to any of its provisions. Because the treaty is not subject to reservation, any congressional or Executive statements saying we do not agree to be bound by a provision of the treaty will be ineffective after the treaty is in force. We will instead be bound by the conference's interpretations of the treaty.

I am especially concerned about the effect of the treaty on private property rights in my State and throughout America. Private property is constitutionally protected, yet one of the draft protocols to this treaty proposes "an increase in the area and connectivity of habitat." It envisions buffer zones and corridors connecting habitat areas where human use will be severely limited. Are we going to agree to a treaty

that will require the U.S. Government to condemn property for wildlife highways? Are we planning to pay for this property? One group, the Maine Conservation Rights Institute, has prepared maps of what this would mean—I do not know if they are accurate yet, but that is my point. Neither do the proponents of this treaty.

Article 10 of the treaty states that we must "protect and encourage customary use of biological resources * * * that are compatible with conservation or sustainable use requirements"—as set by the treaty. Whether our ranchers could continue to use public and private land for grazing could depend not just on the Secretary of the Interior's latest grazing rulemaking, but on whether grazing is considered a compatible use for conservation under the treaty. This bio-diversity treaty could preempt the decisions of local, State, and Federal lawmakers for use of our natural resources. The details that are left for negotiation could subject every wetlands permit, building permit, waste disposal permit, and incidental taking permit to international review.

We would be subjecting property owners to international review, which would be yet another step in the already egregious bureaucratic processes, just to have the very basic permits necessary for the use of their own private property.

I believe that arguments that the treaty should have been approved by August 30, 1994, in order to have a vote at the conference of parties in November 1994, are without merit. The administration is fully aware of the Senate's authority to approve treaties and the time necessary for approval. The administration should have left more time for consideration by the full Senate.

Here we are, in the last 10 days of scheduled session, and we are being asked to consider a very important international treaty that is not very well known, and the consequences of which are even less well known.

I am well aware of some Senators' concerns about approving the treaty before the November conference of parties so that we can be a participant. But we will qualify as an observer to the negotiations. The United States would be the largest donor to the Global Environment Facility—the proposed financing mechanism—and certainly can expect the parties to pay close attention to our suggestions if they want us to contribute money.

Mr. President, I think the responsible approach here would be to let the November conference of parties come together before we have passed this treaty. Let us review what other parties propose at the negotiations. I think it would be better to pass the treaty later, after we know the details.

I do not feel comfortable, Mr. President, giving a blank check, passing a treaty which is a very important constitutional responsibility of this Senate, before we have fully negotiated the treaty and know what will be in it.

I think it is very, very important that we wait and get more information. We can ratify the treaty later. The important thing, Mr. President, is that we do not pass something that will bind this Congress and our Nation when we do not have enough information about what is going to be in the treaty.

We cannot approve a treaty on someone else's timetable. Unless we are given adequate time to fully debate the treaty and make reservations and understandings as are absolutely necessary, we should not act. We should have full and open debate on these issues. We should not rush this treaty at the last moment before the end of Congress.

Several of my colleagues and I have statements for the RECORD in opposition to consideration of the treaty at this time, and about the concerns that we would like to have addressed before or during the November meeting. The five of us, and many others of our colleagues, will oppose a motion to proceed to consideration of the treaty.

THE BIODIVERSITY TREATY

Mr. BURNS. Mr. President, the Biological Diversity Treaty may come before the Senate for ratification. I strongly oppose this treaty. I am fearful of how this treaty will effect Montana's agriculture and our other natural resource industries. This is yet another example of the Clinton administration's war on the West.

The Convention on Biological Diversity was reached at the Rio De Janeiro meeting in 1992. At the time the treaty was drafted, the United States was cautious about embracing such a sweeping plan. Since that time the Clinton administration has asked the Senate to ratify the treaty.

This treaty makes me nervous. U.S. environmental laws are currently encroaching on our private property rights. Provisions like the Endangered Species Act and wetlands laws are dictating what private land owners can and cannot do with their own land. This treaty could give a panel outside the United States the right to dictate what our environmental laws should say. That is wrong.

I have long believed that the best land management decisions are those made at the local level. Instead of moving our decisions from Washington to the local level, this treaty moves these decisions overseas.

Each Senator should have received a letter from 293 groups from around the Nation who oppose this treaty—14 Montanan groups, including the Montana Farm Bureau Federation, Putting People First, and Grassroots for Multiple Use have joined in this impressive letter. These folks are right, the treaty is vague and leaves too many questions unanswered.

Just as the intent of the Endangered Species Act has been twisted, I am fearful of how this treaty could be twisted to push legitimate, job creating activities, off not only public, but private lands. Montanans do not want that.

I urge my Senate colleagues to join me in opposing this treaty.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. CRAIG. Mr. President, on August 5, 1994, I was one of 35 Senators who wrote to the majority leader raising a number of questions about the Convention on Biological Diversity. The concerns I had then remain, despite attempts of the administration to explain away apparent flaws in the document.

If anything, I have become even more concerned about the convention after reading the analysis titled Technical Review of the Convention on Biological Diversity written by Mark Pollot and Allan Fitzsimmons. This new report raises very serious questions about the purpose of the convention and the impact it may have on domestic policy. My reading is that States' rights and private property rights could be severely compromised.

I am not at all inclined to take the position that it will all work out for the best, and accept the premise that the convention will not be used to inflict added regulation on property owners and public land uses. I have seen too much of that in recent years. I have no doubt that environmental interest groups are waiting in the wings to attack the Western public lands States with legal actions stemming from new authorities they find in the convention. Article 8, for instance, calls for the eradication of alien species which threaten ecosystems. I envision that provision being used as leverage to eliminate cattle and sheep grazing from public lands. Article 8 also calls for added regulations outside protected areas. That sounds exactly like the calls I have heard, so far unsuccessful, from opponents of multiple use who wish to create artificial buffer zones for millions of acres outside Yellowstone National Park and Hell's Canyon National Recreation Area.

The Federal Government controls 63 percent of the land in the State of Idaho. Our economy and our lifestyle are sensitive to the pull and tug of environmental laws and their interpretation by Federal agencies—particularly so when it comes to the Endangered Species Act. The majority of the State's land area is encumbered by one or another species listed under the ESA. Unfortunately, the ESA has become a tool for those groups attempting to stop logging, mining, and irrigation, and to remove cattle from the public range. They have used every nuance offered by the ESA and its interpretation in the courts to raise challenges and pursue litigation at an

alarming rate. At this very moment, a Federal judge is considering a request for injunction which would shut down all activities on six national forests in Idaho. Environmentalists will stop at nothing in their zeal to extend the power of the ESA, regardless of the disruption and damage which results.

Though the ESA is well beyond its time for reauthorization, the Environment and Public Works Committee has delayed markup and rebuffed amendments. I believe the convention would lend even more strength to the ESA and offer further opportunity for those who oppose traditional Western public land uses. I am not about to let that happen. There are many other examples I could quote from the convention which appear to open public land management to a new barrage of legal initiatives from those who would close these lands to public use.

The convention simply is not ready for ratification by the Senate. Terms are too vague and definitions are lacking. The convention needs much more thorough review by committees with jurisdiction before any action is taken. One hearing was held in the Foreign Relations Committee. I believe the Committee on Energy and Natural Resources, and perhaps others, have an interest and should have time to hold hearings and develop the record in terms of public land and agricultural implications.

As I understand it, there is no advantage to the United States to ratify the treaty at this time. The United States will be in attendance at the conference of parties which is scheduled for late November. Our status there will not change if the treaty is ratified now. The conference will begin to add details and understandings to the convention. Even today, a 300=page draft of protocols to be considered at the conference is just arriving for review. We will know much more after the convention about how the terms of the convention will be interpreted. An argument has been made that our negotiating position at the conference is stronger if the Senate has not ratified the treaty. Other countries will be aware that the United States is withholding approval until after definition is added and we have had a chance to review and analyze it.

Mr. President, there are simply too many unanswered questions about the convention. The Senate needs more time to examine all aspects. I strongly urge that we not act on the resolution for ratification at this time.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. HELMS. Mr. President, I have a number of concerns about this treaty—concerns that I have expressed before, and which I will repeat for the record.

The many nations represented at the negotiation of this treaty at the so-called Earth summit had widely varying national agendas—agendas that had little to do with environmental protection. Further, I believe that many of the clauses and statements in this treaty reflect a rather common view among so-called developing nations that this treaty is some sort of an international cash cow to be milked by transferring, with no strings attached, wealth and technology from developed nations to promote the economic growth of developing nations. I give them credit for recognizing their own national interests and pursuing them—a matter in which I believe our own State Department could learn a thing or two.

In particular, I find the convention's treatment of intellectual property rights, finances, voting procedures, technology transfer and biotechnology dangerously muddled, vague, and disturbing.

But there is an even more fundamental concern: The treaty before us will commit the United States to certain obligations, but the Senate, which is being urged to ratify this treaty now, has no way of knowing the nature and extent of those obligations. The treaty spells out no details, nor does it refer directly to any existing mechanism or structure.

For example, articles 20 and 21 of this treaty commit the developed country parties to provide new and additional financial resources to developing country parties. Who are the developed countries and who are the developing countries? That will not be known until after the treaty enters into force. At its first meeting, the so-called conference of parties will establish a list.

What about these new and additional financial resources? How much money will the Senate be committing the United States to paying by ratifying this treaty? Is that not a reasonable and straightforward question, one which we are obliged to ask before ratifying?

Yet we don't know. Once again, we learn that there shall be a mechanism for the provision of financial resources to developing countries and the operation of that mechanism shall be carried out by such institutional structure as may be decided upon by the conference of parties at its first meeting.

Tim Wirth came before this committee and assured us that our financial obligations are known, that the financial mechanism is in fact established. I challenge him to specify where that is stated in the treaty. The treaty itself is silent on these matters, and, according to the Vienna Convention on the Law of Treaties, matters or disputes requiring interpretation shall refer to the text of the treaty itself.

The administration assures us that it will guard U.S. interests at the conference of parties. It assures us that it will not allow any surprise developments that we would not support. I am gratified to hear that, but I cannot accept this abdication of the Senate's constitutional privilege to advise and consent to a treaty before ratification.

This so-called treaty is scarcely more than a mere preamble, not a treaty. The real treaty—the essential nuts and bolts—is yet to be created at the conference of parties. If the Senate precipitously ratifies this preamble falsely described as a treaty, it will have given away one of its major constitutional authorities and will have betrayed the trust of the American people.

There is a simple solution: Article 23, paragraph 5 of the treaty provides that any state not party to this convention may be represented as observers at meetings of the conference of parties. Even if the United States ratified the convention now, it could participate in this first conference of parties only as observers. But that is just fine: the United States' voice will be heard loud and clear. The United States is the single largest contributor to this convention; it plans to fund it to the tune of $420 million over 5 years. If that does not count for something, then we are crazy to even consider ratification. When some of the vagueness of this convention is cured—the voting rules, financial procedures, definitions of developed and developing States, definition of terms like "alien species" and "biosystem," technology transfer arrangements, biotechnology issues, et cetera—then bring it back to the Senate for hearings and consideration. The more this administration tries to push this through at the eleventh hour of the 103d Congress, the more suspicious I get.

THE CONVENTION ON BIOLOGICAL DIVERSITY

Mr. NICKLES. Mr. President, along with several of my colleagues, I continue to have serious concerns regarding the Convention on Biological Diversity, treaty document 103-20. I understand that the distinguished majority leader may bring the convention before the Senate prior to adjournment. One of several major issues that has not been adequately addressed by the Clinton administration relates to the effect of the convention on State, local, and tribal laws and rules.

Prior to Senate consideration, it is imperative that we are sure about the extent to which this convention will impact Federal agency regulations and actions taken by the Federal Government, its agencies, or its agents in pursuit of or in furtherance of the convention. Will the convention be construed by courts to preempt, supersede, or limit any existing or future State, local, or tribal laws or regulations, including those laws or regulations that apply to private lands, such as those lands that may lie adjacent to Federal wildlife refuges or wilderness? At this point, we do not know.

The Clinton administration has frequently assured us that they will take care of these problems. They have sent

up supporting statements about the convention, but they have given little information on the likely effect on State, local, and tribal law.

I point out that the memorandum of record signed by the Secretaries of State, Agriculture, and Interior on August 16, 1994, states that the convention does not provide for a private right of action. This is small comfort, and may not even be true. Many Federal environmental and administrative procedure laws generously provide third parties with standing to bring enforcement actions or challenges into Federal courts. Frivolous suits brought by groups against individuals and small businesses have been devastating to the defendants named in those suits, even if the plaintiffs' suits are ultimately dismissed for lack of standing. But standing may be granted simply because this is a treaty, irrespective of the absence of specific language in the convention providing a private right of action. As discussed by constitutional lawyer Mark Pollot in "Technical Review of the Convention on Biological Diversity:"

> Indeed, the very existence of the convention itself may be used by opponents of the state-based action to move actions into federal court on the theory that the convention makes local and State land use and zoning questions inevitably Federal questions based on a claim of preemption. It is not the treaty itself which gives rise to the question, but the supremacy clause [of the U.S. Constitution].

I am very concerned about the potential reach of this convention into the realm of constitutionally protected property rights of individuals and the rights of State, local, and tribal governments to control uses of land within their jurisdictions. I am also highly concerned about the effect of the convention and actions taken under it on the financial and other resources of the individuals and State, local, and tribal governments who will be forced to expend those resources to defend against the infringement of their constitutionally protected rights when actions taken in pursuance of the convention affect those rights.

This is only one of the many issues left unanswered about the convention's possible impact. It is clear that the Senate should not try to rush through its advice and consent to the convention's ratification until we have more information. In particular, the conference of the parties provided for in the convention will meet in November, and is expected color in many of the blank areas in the convention text. Also, hundreds of pages of protocol language is currently being drafted for the November meeting, none of which will be subject to Senate advice and consent if the Senate rushes to take action now. The Senate must be allowed to review the convention with these details attached before deciding whether this is in the interest of the United States. We should at least wait until next year before committing our country to unknown obligations we may have reason later to regret.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. WALLOP. Mr. President, I rise today to express my concern on the haste with which we are being asked to act on the Convention on Biological Diversity. When reviewing international treaties, it is the role of the Senate to provide advice and consent to the President. This process is meant to protect the interests of the U.S. treaties define the United States relations in the international community and, as such, can have a tremendous effect on domestic law.

The so-called biodiversity treaty attempts to globalize the enforcement of restrictive environmental laws. These laws, as contained in the treaty, remain consistent with this administration's current environmental policies. At the agency level and in Federal courts across this Nation, the administration has fought to subordinate private property rights to the newly proclaimed rights of various plant and animal species. It has sought to define ponds and lawns wet from leaky sprinkler systems as navigable waterways under the Clean Water Act, simply to transfer more property from private ownership to the Government. The biodiversity treaty, as written, would give the Clinton administration even greater authority to accomplish suspect environmental goals.

Furthermore, article 8 of this treaty mandates that parties to the treaty take appropriate action and special measures to conserve biological diversity in protected areas. What is a protected area? By the treaty's definition, it is a geographically defined area which is regulated to achieve specific conservation objectives. In other words, a protected area is whatever an anonymous Federal bureaucrat says it is.

Under this treaty, the Federal Government would be required to manage biological resources important for the conservation of biological diversity whether within or outside these protected areas. Yet, nowhere in this treaty, or in any literature about the treaty, is there an explanation of the substantive qualities of protected areas, threatened species, or alien species, which necessitate their regulation or, in the case of alien species, their eradication.

Many of us have taken long lists of concerns to the State Department. In return we have received the weakest of verbal assurances that our concerns will be taken care of. We have been told that unseen, forthcoming protocols will rectify and clarify any and all problems. The State Department has even gone so far to say that we can safely agree to the treaty without ever seeing these 300 pages of protocols.

We know that this treaty is not complete, and we know it will not be complete until after the conference of parties has completed its work. I ask you, can the United States Senate, in good faith, give its consent to this treaty without having had an opportunity to scrutinize the completed convention? The best advice we can give President Clinton right now is to wait until the Convention on Biological Diversity has been completed before asking for our consent.

AMENDMENT NO. 2601

Mr. CHAFEE. Mr. President, I am relieved Senators METZENBAUM and HATCH have agreed to withdraw their amendment to limit the antitrust exemption conferred upon major league baseball by a 1922 Supreme Court decision.

First, this is no way to legislate. We are in the 11th hour of the session, on the last appropriation conference report pending in the Congress. The Judiciary Committee is the place to consider, debate and refine an authorization such as this—not the Senate floor.

The real issue is whether or not the Federal Government should inject itself into a private labor-management dispute—plain and simple. It is my steadfast view that the Congress has no business interfering in a collective bargaining dispute, except under the most extraordinary of circumstances.

Second, and finally, I am opposed to this amendment because it would have a detrimental impact on minor league baseball, which draws substantial financial support from the major league franchises. This is the farm team system, the fresh blood for the major leagues, and thus, crucial to the future of baseball.

The salaries of all minor league players are covered by major league baseball—a cost to the clubs of about $8 million per year. This subsidy enables minor league baseball to sell affordable tickets, and to provide maximum benefit to the fans.

Rhode Island is a minor league State, and we are extremely proud of our own Pawtucket Red Sox, a club within the International League. And let me tell you, they have had a great season, with a packed stadium almost every night. That team has been the training ground for some great players including Jim Rice, Fred Lynn, Wade Boggs, and Roger Clemens. Rhode Island has had a long tradition of minor league baseball, dating back to the founding of the Providence Grays in the 1890's. Our own Pawtucket Red Sox began their great tradition in 1968. They are a valued asset in our State, with a passionate and loyal following. Their future would be threatened if this legislation were enacted, and thus, I will continue to oppose legislation along these lines.

Mr. WOFFORD. Mr. President, here it is the end of September—and there

are no pennant races. Obviously, baseball has serious problems. We are at a major impasse.

The owners and the players could not sit down at a table and work out a compromise to save the season, and we are all the losers for it.

The amendment offered by my colleague from Ohio, Senator METZENBAUM however well-intentioned, is not the best way to go forward. I'm concerned that it would hurt small market teams.

While I agree that it is proper for Congress to review the state of the game, I would have voted against Senator METZENBAUM's amendment.

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business.

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

GATT

Mr. DORGAN. Mr. President, there has been a fair amount of discussion in the last couple of days here in Congress and in the newspapers about the subject of GATT, General Agreement on Tariffs and Trade.

Frankly, not many people know very much about GATT, what it means. It sounds sort of dull, like a backwater in public policy. But GATT, the General Agreement on Tariffs and Trade, the potential ratification of the Uruguay round of these trade talks, will have enormous effect on the lives of every single American and every American family.

I wanted to say a few words about it today because I sense there is an impatience here in Congress and in the country on the subject of GATT. Some people are impatient because they think our trade negotiators have negotiated an agreement with many, many other countries and it a fundamental nuisance if we now decide we cannot move this swiftly and approve it quickly. It is just a nuisance if somebody wants to have a discussion or debate about it.

I would say, it is not at all a nuisance for us to be talking about the fundamental economic and trade policies. These are some of the most important and profound policy changes in the last quarter or half-century.

This country, as I have said on the floor on previous occasions, is in a sour mood. It does not take much to find that out. Turn on your radio and listen to the next talk show. Turn on the television. Go visit with some folks in a cafe and see what they think about life, about Washington, about their Government, about where the country is headed.

At least part of that, it seems to me, is what they see in the institution of Government. They see waste and they see problems and they see evidence of concern. That sours them. But there is another element to all this because I think the Government, the Congress, for example, has addressed a lot of things in very important ways. We affect senior citizens in a positive way, affect farmers in a positive way, affect wage earners in a positive way. So not all is bad and not all that has been done represents a step backward. We have made many steps forward. But it is so much easier to be critical than it is to look at the positive side of things—and I understand all that.

Yet at least part of the discontent deep in the gut of every American is some basic understanding that we are not quite doing as well as we used to do. It used to be almost a given when you woke up in the United States of America, you knew that we were the biggest, the best, the most, the first: No. 1. It was just the way it was. And you knew that is the way it was going to be in the future. And you knew life was better for you than it was for your parents. And life was going to be better for your kids than it was for you. That is the way it worked. That is the way things have been for several decades in this country.

But things have changed. The fact is, the average American family has less income now, adjusted for inflation, than that family did a decade ago. If you talk to parents you will find out they are not so sure their kids are going to do better or have it better. In fact, most people think their kids are going to confront more challenges and more trouble and lower incomes and less opportunity. That gnaws at people and leads people to be concerned about the future and to have less confidence in the future.

People know that if you look around you will see other people around the world now have jobs that we used to have. Whoever might be watching C–SPAN on television will understand, probably, that we invented television. The United States of America invented television. We invented it but we no longer produce many television sets. The production of television sets has largely all moved offshore. We invented the technology and someone else produces the television sets.

The American people know that. And they know that it is not just television sets. We have lost market share in many other things. We have, in the last decade developed an economy in which we listen to economists and we listen to the soothsayers on Wall Street and the business folks and others. And we have been led to believe that we should measure our economic health based on what we consume rather than what we produce. No country will long remain a world economic power unless it measures in a real way its opportunity and its strength based on what it produces, not what it consumes.

Turn on the radio as you drive down the beltway and listen to the next economic statistic. The next question is, what were retail sales this month? The whole series is geared on what we consume rather than what we produce. And that is the dilemma that we face in our country. GATT, the General Agreement on Tariffs and Trade, furthers this consumption mentality.

The notion of GATT is that we should reduce tariffs. Last evening I was listening to the news. The description of GATT was: It is a reduction of trade barriers. Who could be against that? I do not know of one thinking person in this country who would say: Gee, I am against the reduction of barriers. Phrase it that way and I say sign me up. Send me in. I am all for it.

But that is not exactly what is going on with GATT. Yes, it reduces tariffs. That was part of the negotiations, country to country. It does open up markets. I think it will do that.

It also establishes the rules of competition. Most certainly it will do that. It establishes the rules by which we in America who produce certain products will compete against others in other countries who produce those same products. And the rules of competition, it seems to me, are rules designed to facilitate the economic interests of the largest producers in the world, those economic interests who are very large. These producers are not American firms or Japanese firms or British firms or German firms any longer; these companies do not get up in the morning and say the Pledge of Allegiance to the Flag. These big producers are multinational corporations. They are international corporate citizens interested in one thing: Maximum advantage for their stockholders.

Those corporations, which I think largely drive these discussions, have an interest that is very, very simple. Their interest is to produce their products in an area of the globe where they can find the cheapest possible production and then to sell their products in the area of the world where they can find the best markets for sale. What does that mean? It means that when you are producing something, if you can possibly find a way to produce it paying 15 cents an hour labor and then sell it in a rich, aggressive market like America, you will maximize your profits.

So we set up competition in which producers can judge where in the world to produce. It is as if you get on an airplane and you fly around the world and peer down and say, "All right, where will I produce this product? Who has the capability? Who has the labor force? And what will it cost me?"

I have said on the floor previously that the cost comparisons are very interesting, which is why the competition for production established in these kinds of trade agreements is so fundamentally unfair to the American

worker. We now pay about $16 an hour for average manufacturing wages in the country. That level comes from a very long struggle between producers and workers, and the collective bargaining process and our notion of what a living wage should be. That network of rules and notions has developed over a long period of time in this country.

Now, in many other countries there is no such network at all. In many other countries we are not talking about a real comparative economic advantage, as economic theory would describe it. We are talking about political comparative advantages, political in the sense a country can decide that it is not interested in upholding fair labor standards.

Some countries do not have standards for safety in the workplace, standards that prevent 10-year-old children from working 10-hour days in sweatshops. These are political decisions, and some countries make them all the time in order to inhibit the growth of a well-paid labor force.

So the result is, we have many areas around the world where you have relatively low-skilled but very, very low-paid, workers. These workers are willing to work for multinational companies for what we would consider to be an insignificant amount of money.

I mentioned the other day a woman named Sadisha. Sadisha is a woman in Indonesia who makes shoes. She works 10½ hours a day. She works 6 days a week, and she makes 14 cents an hour. The product of her work is a pair of shoes that will sell for $80 in the United States of America. She needs about 1¼ hour to make a single pair of shoes, so an $80 pair of shoes costs only 20 to 25 cents in labor.

Would a company who wants to produce shoes decide to produce them in Pittsburgh? Or would that company decide to produce them where they can pay 14 cents an hour? What is the economic decision for that company? It is clear. It is a decision that too many companies have made over the past few years. A manager thinks to himself, I have a choice: I can hire one American at the average manufacturing wage, or for the same money I can hire 20 people from the Philippines. Rather than that one American, I can hire 40 people from India. Rather than hiring one American at an average manufacturing wage, I can hire 80 people from China.

Those are the choices that producers have if you establish a competitive trade system in which you say, "We're not too much worried about standards; all we want to do is reduce the tariffs. And if we can reduce the tariffs, we'll pretend we just won the Olympics. We'll celebrate. We'll declare a day of feasting and rejoicing. And we'll call the agreement free trade."

Of course it is not fair trade because we have then said to the American worker, "We want to set up competition for you and, gee, we think you're good, we think you're hardworking and enterprising, and we think you can win." They say, "What is that competition?"

We say, "You now earn $15 an hour average manufacturing wage, and we're going to put you in the ring and you are going to compete with somebody making 14 cents an hour."

They are going to scratch their heads and say, "You know, I'm not sure we can compete. I'm not sure we want to compete. Who thinks we can compete with 25-cents-an-hour wages, or 50-cents-an-hour wages, or $1-an-hour-wages when, after all that we have been through in this country to improve living standards and working conditions, to try to give people who work hard a living wage, we are now told that we have a new system of competition." That is what is at work in these discussions about trade rules and GATT.

Yesterday, I was in a discussion about this issue. It took no more than 30 seconds to become the predictable discussion between people who talk right past each other. I raised some of these same issues, and the response by a friend of mine was, for those of you who want to build walls around America and keep out all imports—and I thought to myself, gee, that is not what I am talking about. I would never suggest that. I want American consumers to have a wide choice of goods produced in the world. So immediately we talk past each other in these debates.

Maybe we should construct trade rules differently. Competition should be fair competition, not between us and everybody in the world, or us and those who will be willing to work for 25 cents an hour. The competition would be fair between the industrialized countries where living standards and work standards are relatively similar.

And then let's use preferential trade conditions to try to bring some of the other countries up to our level, rather than being dragged down. That would be better than what happens now. Now the producers fly around the globe and say, "Where on Earth can I produce for the cheapest cost?" Of course, we learn that those very same places where you can produce for the least cost are going to allow you to hire workers who cannot begin to purchase the products they produce.

So you have no choice but to ship these goods to the United States. You need to develop markets and try to sell your product here. This works for a while, and then one day, inevitably, not enough people will be working here to be able to afford to buy the products that you produced elsewhere.

That is the fundamental problem of putting together a trade system that works.

It is not just an inconvenience, and it is not just a nuisance for us to decide to stop and try to promote a serious and abiding national discussion about these policies. These policies, after all, are about this country's economic future. It is not about free trade versus protectionism. That is far too simplistic.

The Senator from North Carolina raises these questions, and some others of my colleagues raise these questions. We are viewed with arched eyebrows as "folks who don't quite get it, folks who just can't quite see over the horizon, who just do not have the vision to understand exactly what is happening."

I do not agree. I and a lot of the American people understand exactly what is happening. In fact, I think this problem fuels part of the engine of discontent in this country. Too many American families understand their incomes are lower than they were a decade ago. Too many American families understand that when they are looking for jobs for their kids, well educated or not, it is going to be harder to find the jobs. Those jobs have left.

That is what this debate needs to be about. We had an economist, who is a friend of mine and for whom I have great respect, come to a hearing some while ago. He said, "These kinds of trade agreements will mean, yes, lower income, but only for the unskilled workers in America."

I said, "What do you define as unskilled workers in America?" Seventy percent of the American work force—70 percent of the American work force.

"Yes," the economists say, "this will mean lower income for unskilled workers, only for unskilled workers." What they are saying is, these kinds of agreements will mean lower income for 70 percent of the American work force. Is that a policy that we want for America's future?

Those who are opposed to these viewpoints will say, "Well, should we not compete?" Absolutely. No question about it. Is competition good? You bet it is. Can we do without competition? No, I do not think so, because without competition you do not have creativity, you do not have innovation, you do not have the kind of aggressive invention and production that goes on in a free society. So we need it.

The question has never been that. The question is fair competition. Do we want to compete against 25-cent-an-hour wages? Do we want to compete against $1-an-hour-wages? Or do we want to decide to compete when we have developed rules of competition that are fair? Those are the questions, it seems to me, that we must begin to answer.

There are times these days when I think everyone serving in this Chamber wonders how will we ever change the mood in this country; how will we ever try to respond to the increasing volume of negative cries and responses in this country.

One way we do that is to understand that all of us have individual responsibilities that start with us, not with Government, and they start with us at home, in our neighborhoods, and in our communities. We also need to meet the responsibility we all have to make sure that our Government does the right things for our future.

The right thing, it seems to me, that restores hope and confidence in this country, is to provide people with an understanding that tomorrow there will be opportunity. That is all our obligation is; that is all people want. People want to be able to see opportunity ahead.

As I close, I cannot help but point out one other thing. A few days ago we saw this exercise of a contract for the future on the steps of the Capitol—a contract. I looked at that contract; I thought somebody ought to be sued for contract fraud here. There are certain timeless truths that ought to go across every single debate and every single understanding we have: Pay your bills.

The contract they are talking about says, "Let's increase the deficit massively, not worry about it, promise and promise and promise, and not decide how we pay for it."

Pay your bills. That is the first virtue, it seems to me. It is a truth that we all ought to understand, individually and especially in our Government.

Educate your kids. Give your kids an opportunity, invest in them, invest in human potential—that is the way to move this country ahead.

Keep your streets and neighborhoods safe. Deal with the problem of security and crime. If you cannot, kids cannot learn if they are not safe, families do not stay together. You cannot produce if you do not feel safe. The fact is, security and safety are critical.

And then provide an opportunity in which our workers compete fairly—fair trade—and that is what GATT is all about—fair trade. That is why this need for a debate is so important.

I guess I am so concerned about GATT because we need to enable the American people to hope for the future. People hope in the future if they believe that the future holds opportunity. That is what this debate is about.

I am not one who believes the economic future of this country is inevitably a future towards fewer jobs and lower income. It is the future we decide it will be. We can compete anywhere on this globe. We have the ingenuity, the capability. We have the natural resources. If we have the national will and if we develop the national policies, we will do just fine.

But this debate is about the policies and the will. That is why I would say to those who think this is all a nuisance, and who believe we should not worry too much about GATT, you are wrong. This is the time, this is the place, and this is the purpose of this institution. We need to have a meaningful debate about this country's economic future.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. ROCKEFELLER). A quorum has been questioned. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MACK. 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. MACK. Mr. President, I ask unanimous consent to address the Senate as if in morning business.

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

Mr. MACK. Thank you, Mr. President.

ROBERT LEE FULTON SIKES

Mr. MACK. Mr. President, early Wednesday morning, America lost a remarkable son. Robert Lee Fulton Sikes was a citizen, businessman, father, and patriot who served the people of the Panhandle of Florida in the House of Representatives for 38 years.

He cast a long shadow during his years in Washington, and continued to do so in the years following his retirement in 1978.

It was a pleasure and an honor to have known Bob Sikes. His contributions to America and the State of Florida will endure through generations to come.

He worked tirelessly to strengthen America's armed forces, serving as chairman of the Military Construction Appropriations Subcommittee in order to provide for the needs of our men and women in uniform.

An avid hunter, he loved the land of northwest Florida and is credited with creating the spectacularly beautiful Gulf Islands National Seashore.

Bob Sikes was born 88 years ago in Isabella, GA, and he attended the University of Georgia where he studied agriculture and journalism. After receiving a master's degree in English from the University of Florida, he became a newspaper publisher in Crestview, FL.

He was first elected to the House of Representatives in 1940. He served in the Army Reserve, including a European tour during World War II while a Member of the House, and he eventually rose to the rank of major general.

Congressman Sikes had a unique nickname, "He-Coon," which later served as the title of his autobiography. He once explained the nickname, saying the He-Coon was a kind of leader. He knew where the food was and where to get the water.

He was supposed to have been able to keep off his enemies and to protect his own. He was simply supposed to look after those around him who depended upon him. It would be hard to find a more fitting description of the feelings so many of his constituents held for their Congressman.

I had the chance to witness that esteem firsthand a couple years ago when he escorted me around his beloved Crestview. The outpouring of love and respect for him from everybody we met was overwhelming.

Our thoughts and prayers are with his wife Joan, his son Robert, his daughter Bobbye, and his entire family. He served well the country he loved. To borrow a phrase I often heard him use, during his remarkable life Bob Sikes surely "covered himself in glory." We will miss him.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT OF 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RECISSIONS ACT, 1994—MESSAGE FROM THE HOUSE

The Senate continued with the consideration of the message.

Mr. DURENBERGER. Mr. President, I ask unanimous consent to set aside the pending amendment to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2602 TO AMENDMENT IN DISAGREEMENT NO. 12

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself, Mr. CONRAD, Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BOND, Mr. HEFLIN, Mrs. HUTCHISON, Mr. DANFORTH, Mr. DECONCINI, and Mr. ROCKEFELLER, proposes an amendment numbered 2602.

Mr. DURENBERGER. 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:

SEC. . MEDICARE SELECT.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "3-year period".

Mr. DURENBERGER. Mr. President, this amendment is designed to extend what is called the Medicare Select Program. The program is scheduled to expire in 3 months, on December 31. At this point in my remarks, for the benefit of the 20 to 25 of my colleagues who are lined up at an airport waiting to leave, I intend to withdraw this amendment at an appropriate point in time,

when there is an agreement relative to the disposition of the underlying bill. I also say that for the Mayor of the District of Columbia, and everybody else.

Mr. President, I ask unanimous consent that Senator ROCKEFELLER be included as a cosponsor.

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

Mr. DURENBERGER. The Medicare Select Program is a demonstration program which is well known to many of our colleagues. It was initiated in OPRA 90 to provide beneficiaries with a managed care option for supplemental benefits. The program is working. Its authority to operate needs to be extended, and it is that simple. Every once in a while we do something right around this place.

Medicare Select is a name attached to an opportunity, if you will. It has strong bipartisan support. It was included this year in the majority leader's health care reform bill, the Finance Committee bill, in the minority leader's bill, and in the mainstream bill—I imagine every bill but the single payer bill. I understand the Senators from Florida, Mr. MACK and Mr. GRAHAM, support the program as well.

Mr. President, these bills included provisions to extend and expand the program to allow all States to participate. It is currently limited in participation to 15 States. My amendment only attempts to guarantee continuity for the program in the States where it is already operational, not to extend its authority.

I will explain why it is so important to extend its authority. Over 400,000 Medicare beneficiaries currently are enrolled in this program in these 15 demonstration States.

The impact of not extending Medicare Select will be, very simply, higher premiums for the elderly, less choice for beneficiaries, and higher costs to the current part A, part B Medicare system.

What does all of this mean to elderly Americans? It means that congressional gridlock could cause rate increases to many Medicare beneficiaries in 1995. It means that some beneficiaries will lose the option of continuing with their current plan variety. In my State of Minnesota, for example, it will impact two of the five current managed care choices. I have a chart here which looks like it is done in fine print, but in order to get all of the benefits and all of the choices available to seniors in my State, thanks to Medicare Select, and also thanks to the even older contract programs, that we still are managing to operate in my State, we put them all on this chart.

Many elderly Americans are used to just getting part A and part B from the Government and then getting sold a bunch of supplementals that fill the gaps in their Government program, sold to them by they used to say "overaged movie actors"—but the closer I get to that age, the less I say that—on TV. If you need a drug benefit, buy a supplemental; if you want to cover your deductible in the hospital, buy a supplemental.

Thanks to the current occupant of the chair, the majority leader, and many others who worked on the Finance Committee to try to improve choices for the elderly in my State of Minnesota—particularly in the Minneapolis-Saint Paul area—this is the kind of choice currently available to people under Medicare.

On the left-hand side of this chart we list the benefits that are available to seniors: Hospital inpatient, hospital outpatient, or physician network services, and emergency services. Then if you look across the top, you see Medicare parts A and B; you see Medicare basic supplemental; you see Medicare extended basic supplemental. Then you see two more choices, and these are the Medicare Select choices. The Blue Cross/Blue Shield of Minnesota choice, called Senior Gold. And then the med centers choice called Seniors Choice II. These are the Medicare Select choices, followed in my State by what is called Health Care Prepayment Plans. These are under a different approach which we authorized way back in 1983. There again, you see a Blue Cross/Blue Shield product called Blue Plus, a Medicare project, and a plan from Physician's Health Plan, now called Medica.

In my State, seniors have really six choices with two supplementals to their Government plan. What happens with all of this choice and with this ability to make comparisons, of course, is that seniors are actually shopping health plans that suit their needs, not the Government's needs, not your needs or mine, but their needs. The cost of care and of access is going down. The quality of care is improving. The costs are coming down.

So the two plans in the middle—Medicare Select plans—are the alternatives for the seniors we are trying to preserve in Minnesota. There are two like that in some of the metropolitan areas in Florida—we discussed that with the Senator from Florida—the Humana plan and Blue Cross/Blue Shield plan. And in 13 other States in this country, there are supplemental options for seniors who are enrolled in the traditional fee-for-service program.

For example, Medicare Select offers full coverage of the deductibles and copayments. That is one of these choices. You can have, in one plan, your deductible and your copayments could be covered. Medigap does not offer that guarantee. You can take that choice. You may still pay charges to the physician above the Medicare accepted amounts, and depending on the policy you buy, you may still have to pay the Medicare required deductible.

We struggled this year in health care reform to balance two potentially conflicting goals. One was how to save money in Medicare and how to finance more benefits, such as prescription drugs and long-term care. Medicare Select plans are able to offer beneficiaries supplemental benefits at a lower cost than traditional Medigap policies. When the program expires at the end of this year—and this is why I am here—when the program expires, the plans will not be able to enroll new members.

So the present people in Minnesota or in Florida who are having choices of Medicare will continue to have those choices.

But when the plan is not able to enroll new members and the present membership ages, what happens? The cost of their care goes up and so the price of caring for them goes up.

The benefit of extending Medicare Select is to continue to encourage these plans to continually enroll new members giving new people arriving at age 65 an opportunity to have this choice, and the risk gets spread across many more people thus keeping the cost low. If we let this close up at the end of this year and freeze in the existing members what happens over time is the sick stay in, the costly stay in, some other people may leave as the prices go up, and pretty soon you have a worthless demonstration.

I ask unanimous consent that Senator KOHL be added as a cosponsor of Medicare Select.

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

Mr. DURENBERGER. Mr. President, it is really self-defeating not to continue this program. It would be helpful to expand this program to many more States, to all 50 States, but we are not asking to do that. We will not ask to do that program. But at least in the States where it is working and it is saving beneficiaries money and it is saving the taxpayers' money, we need to continue it in existence.

I have spent the last 16 years working to bring Medicare up to date with private health care systems. Medicare Select is the working example of what the private system can do to help Medicare beneficiaries offer quality health care at a better price.

Medicare beneficiaries have a generous Federal subsidy of 75 percent, yet Medicare costs continue to soar. Today's elderly Americans must pay $41.10 per month for Medicare part B coverage. In addition, they pay a really large hospital deductible of $696. They pay hospital coinsurance which depending on the period of hospitalization, can be $174 or $348 per day. They pay $100 part B deductible and they pay at least 20 percent of physician's charges. All that adds up and then you shop around for supplement coverage, and that really adds up.

So recognizing all of that burden, all of that complication, that we are only

too well aware of for our elderly parents, for elders generally, we created the Medicare Select Program to bring more affordable coverage to seniors. Medicare Select gives them the choice of purchasing their standard Medigap insurance policy through managed care networks. It operates like the point of service option like we discussed under health care, through benefits provided by doctors with contracts with the plan, standard Medicare benefits provided by any physicians of their choice, and all the savings are passed on to the beneficiaries.

Those purchasing Medicare Select policies save from 10 percent to 37 percent on their premiums over those who buy the traditional fee-for-service Medigap insurance policies. This translates into saving as much as $25 a month for a senior or $300 per year. It does not seem like much to some. But it is tangible real savings for people on fixed incomes.

In addition, these Medicare Select policies are proving to be of high quality and very desirable among Medicare beneficiaries.

Consumer Reports in the August 1994 issue rated the top Medigap policies in the Nation. Of the top 15 Medigap policies, 8 were Medicare Select. And we have only been in business for 3 years, believe it or not. I mean, we all know from watching TV and looking at the literature that our parents get how much of this supplemental Medigap stuff is being foisted on them.

To know that after not quite 3 years—1992 was the first year, 1993 and now we are into 1994—maybe just 2 full years under our belt of experimenting, Consumer Reports says 8 of the top 15 Medigap policies in the country—supplemental policies—are Medicare Select plans, and we are only operating in 15 States. Wow, that is terrific. It is really terrific. I use the word "we" to give some sense of ownership over the authorship of this, but it is not our plan. Unlike part A part B, these are private plans. These are the same kind of plans that people had access to when they were ordinary working stiffs in America. It is the private health plan that President Clinton said everybody ought to have from a choice of private health plans. It is a wonderful opportunity for seniors, and you can see how the market is responding. If 8 out of the top 15 are rated among the best in the country, the market is really there.

Mr. President, I know that amendments on appropriations bills are not the vehicle of choice in this place. This was one of the few vehicles left, and I know that health reform will not happen this year, and I know that the medical technical corrections bill is not ready for easy passage in the House, or so I am told.

I know that one of our colleagues whom the present Presiding Officer and I know only too well on the House side who has jurisdiction over this program does not seem to like it at all, although it is working wonderfully well out in the part of the district that he represents out in California.

So we have some problems. It is not so much our problems. We have still the opportunity. The problem is 400,000 Americans and another maybe 20 million Americans or 18 million Americans in these 15 States could have opportunities like the 400,000 people have already.

So, this does not seem to me to be helpful that someone who disagrees with the value of this program in the face of some proven results can put us in the position where it is very difficult just to continue a demonstration in an appropriate way.

Clearly, in my State the select plans will continue to be offered, but they can only be offered to the people who presently own them. Eventually, in just a matter of a couple short years, that means the program is going to go down in value.

So I would certainly appeal to my colleagues, who may have some ownership over some other vehicles that might come through here next week and my colleagues who are considering what they are going to do about the District of Columbia appropriations bill, that they consider this is not just some Senator trying to make a name for himself who is standing up here trying to foist off a piece of legislation on to the citizens of the District of Columbia. Certainly I am not trying to hold up appropriations for them.

We did not do the national Federal part of health reform this year. We are failing to make good things available to our constituents, if we do not pass something like this.

So until I find out exactly what is going on with the underlying appropriations bill and until I find out what other vehicles might be available in the early part of next week that are moving out of the parking lot and have some success maybe on the House side as well and with an appeal to people at HCFA and the appeal to some of our colleagues on the House side, I will at this stage just simply yield the floor to my colleague from Texas, who has reported to me personally and privately the success in a fairly high-priced State, Texas, where it cost money to see a doc in a hospital, reports the early success and fairly good success of Medicare Select in her State.

So I will yield the floor at this point.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I commend the Senator from Minnesota for taking this leadership role in trying to make sure that in this year, when we have talked about health care reform and are trying to give more access to affordable health care to more people, for not letting this very important program expire, and I do hope very much that the Senator from Minnesota gets the opportunity to put this amendment forward.

We must act, and I am pleased to see that the Presiding Officer is also a sponsor of this amendment and wants to do the same thing, that is to make sure that we have this program in place.

The Medicare Select option is something that is working. It is a program we should encourage and promote. To think that in a year when we have focused so much on health care we would let it die is something we should not allow to happen. It is unthinkable.

Our senior citizens have a hard time when they are on a fixed income, and this Medicare Select program does give them options. In Texas more than 8,000 senior citizens are enrolled in Medicare Select plans, which saves them an average of 15 to 30 percent of the cost of Medicare supplemental plans. This is really significant savings to people who are on a fixed income. Nationwide, 400,000 people are participating in this program in 15 States.

If we allow this program to expire at the end of this year, all of those 400,000 seniors are going to be faced with higher premiums. That is something that we cannot let happen.

Medicare Select policies are highly rated by Consumer Reports magazine. In its August 1994 issue, Consumer Reports included Medicare Select policies in the top 15 best value medigap products nationwide. In fact, almost every health care bill that was introduced on this floor—from the majority leader's bill to the Dole-Packwood bill, to the mainstream bill, every one of them—would have made this a permanent part of our health care system. It would have been a permanent extension to 50 States. Right now, people in 15 States are able to have this very important program.

So I commend my colleague from Minnesota and I commend my colleague from West Virginia and the others who are cosponsoring this proposal. I hope that all of us will be able to look for a vehicle to make sure that Medicare Select does continue next year so that this option will be available to our senior citizens. They are trying to insure themselves. They are doing their best to be responsible citizens, and to have the security that they need for health care. I think we should help them get it.

I commend Senator DURENBERGER, and I thank you, Mr. President.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate very much the comments by my colleague from Texas.

As one who has been, as the Presiding Officer knows, spending a fair amount

of time both on Medicare and health care reform and so forth, I have been waiting a long time for other people to get interested in health care and health care reform and so forth.

It was such a pleasure, when the now majority leader took over as subcommittee chair, to see his enthusiasm, and then when he become majority leader to see the junior Senator from West Virginia take over and get very enthusiastic about the subject.

But I will tell you, when a brandnew Senator shows up and has the enthusiasm for the subject that Senator HUTCHISON has, it really kind of surprises you, particularly because, since Senator HUTCHISON has been here, she has had the right to be preoccupied with other things. I mean, she has had two elections, as I recall, or 1½ elections, since she got here. But, obviously, she is not only aware of the fact that the cost of health care and so forth is a problem, she represents a State that in one way or another has been trying to do something about it.

My impression, from sitting through a lot of meetings on the Republican side with her, as we try to evaluate what is the best approach to health care reform, is that as I leave here, at least looking at my side of the aisle, in particular, as I leave here I am so pleased to know that the citizens of Texas have the opportunity to be so well represented on health care issues. And just the very brief statement this afternoon in recognition of the need by Medicare Select is only a small part of the contribution she already made.

Mrs. HUTCHISON. Will the Senator yield for a question?

Mr. DURENBERGER. Yes.

Mrs. HUTCHISON. Mr. President, as a freshman in the Senate, I am certainly number 100 out of 100 in this august body.

But, of course, the Senator from Minnesota has been in the forefront of health care reform even before this year when the President brought it forward as an issue. I appreciate his leadership. I want to say that he will certainly be missed as we take up health care reform next year. I plan to be here. I am sorry that he will not be here, because he has chosen not to run for reelection. But I do think that we will go forward and we will, I think, improve our health care system.

I wanted to mention one other thing, and that is that our colleague on the other side of this Capitol, Congresswoman NANCY JOHNSON, has been so tenacious in trying to make sure that Medicare Select does not die. I know she has talked to Senator DURENBERGER, she has talked to me, she has talked to many others in the Senate to say, "Please, don't let this very important program die. It is important."

I want to commend the Congresswoman from Connecticut, NANCY JOHNSON, for her leadership in trying to make sure that this important program stays in place.

I thank the Senator from Minnesota for his kind remarks. I will say that when we do pass health care reform next year, it will be because of the efforts that the Senator has made that built up this crescendo of awareness of the very important need that we have in this country to have more access to affordable health care coverage while we maintain the quality in the system. That is the goal we will try to meet once again next year, in his absence.

Thank you, Mr. President.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I acknowledge and appreciate very much the comments of my colleague from Texas.

I am glad she mentioned NANCY JOHNSON, because I have had so many telephone messages from NANCY JOHNSON in the last 2 weeks that I keep asking the people who hand me the messages, is this the one that has come in the last hour or is the one from the previous hour?

There is no one more tenacious than she on this subject. And those of us who have been in conferences with the Congresswoman from Connecticut know how committed she is, particularly on this particular program. She is on the subcommittee of jurisdiction and certainly has a tremendous opportunity, even though she is in the minority party over there.

I also was just informed that the chair of the District of Columbia authorizing committee on the House side is the same person who is the chair of the Health Subcommittee of the committee of jurisdiction on the House side. And that is sort of an incongruous position for us to be in right now, that the same gentleman who at least suggested he has some difficulties with extending Medicare Select even for a year or two is also the person who has authorizing responsibility for the District of Columbia.

And so, perhaps, if Members of the House are still around, he will hear that there is a bit of a quandary here and maybe he will find a way to help us resolve it.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senator DURENBERGER's amendment to extend the Medicare Select Program, which currently provides MediGap health benefits to roughly 400,000 older Americans by using a managed care model.

Like many of the other original cosponsors of Senator DURENBERGER's amendment—Senators ROCKEFELLER, KOHL, CONRAD, CHAFEE, HUTCHISON, BOND, and HEFLIN—I come from 1 of the 15 States where the Medicare Select demonstration program has proved its popularity during the last 3 years.

Medicare Select, which currently provides 100,000 Californians with low-cost MediGap insurance using a managed care model, was enacted in 1990 as a 3-year demonstration program and has proved to be extremely popular, enrolling 400,000 seniors in 15 States. This program used a network of providers to cut premium costs by 10–30 percent over fee-for-service MediGap products—those services and costs not covered by Medicare.

In California, roughly 100,000 seniors have signed up for the program, and Blue Cross of California alone is enrolling an additional 2,200 per month. These Medicare enrollees are signing up because the Medicare Select Program can provide low-cost, high-quality health benefits while still retaining a high degree of choice over their physician.

The reasons for the program's popularity are simple. In order to save money or receive added drug benefits, more and more older Americans are enrolling in managed care plans. In fact, Consumer Reports lists many Medicare Select products as its highest-rated values, and extension of the Medicare Select Program is strongly endorsed by California Insurance Commissioner Garamendi, as well as the National Association of Insurance Commissioners. In addition, the Mainstream plan—and nearly every other health reform proposed this Congress—provided for a continuation and expansion of Medicare Select and other forms of managed Medicare.

Certainly, managed Medicare programs like Medicare Select must be implemented carefully, in order to ensure that Medicare enrollees are appropriately informed of the benefits of this program, provided with high-quality services, and ensured access to highly trained physicians. In addition, managed care programs must be shown to provide lower costs to the Federal Government in addition to consumer discounts.

However, without the extension of the Medicare Select Program, which has already proven its initial success, new enrollments will be cut off at the end of 1994—before a national report has been issued or additional health car reform has been enacted. In the absence of national health care reform, I believe that this successful and popular managed Medicare Program should be allowed to continue.

Mr. CHAFEE. Mr. President, I am pleased to join as a cosponsor of this amendment to permanently extend the Medicare Select Program.

Based on legislation which I introduced in 1990, Medicare Select is a demonstration project operating in 15 States with more than 400,000 participants. Under this program, Medicare beneficiaries have the option to purchase Medicare supplemental insurance policies—otherwise known as MediGap

policies—through non-HMO managed care networks.

The program has been a huge success. Recent data show that Medicare beneficiaries who purchase Medicare Select products pay premiums which are 10 to 37 percent less expensive than the premiums for traditional Medigap products. Moreover, consumer satisfaction with these products is extremely high. Of the to 15 Medigap products ranked by Consumer Reports in its August 1994 issue, 8 were Medicare Select policies. Unfortunately, under current law, Medicare Select carriers will have to halt enrollment on December 31, 1994.

Almost all the major health care reform plans introduced during this session of Congress included provisions to expand the Medicare Select Program to all 50 States. As we all know now, however, health care reform is not going to happen this year. Therefore, at the very least, we should enact legislation which will allow the current 15 State demonstration project, which has been such a success, to continue. This amendment will do just that, and I urge my colleagues to support it.

THE NFIB DOESN'T OPPOSE HEALTH REFORM

Mr. DURENBERGER. Mr. President, the National Federation of Independent Business [NFIB] is getting a lot of heat for its alleged hypocrisy these days. The Washington Post reports that while the NFIB is running ads to complain about the failure of health reform this year, the NFIB itself was opposed to some key elements of the Clinton bill.

That is not hypocritical. As someone who has been fighting for real health reform for nearly two decades—and who was therefore opposed to the worst elements of the Clinton bill—I think it is a pro-reform position.

The kind of health reform the NFIB wanted is exactly the kind of health reform America really needs.

To begin with, the NFIB opposed employer mandates. To enact mandates on employers would just impose universal coverage on a system that doesn't work. It would do absolutely nothing to reform the government subsidies that are the cause of today's major cost shift in the health system.

So employer mandates are not reform. What is reform?

I would begin by reforming the system of tax deductibility for health benefits, which the NFIB also wants to do. Today's system is very regressive. We have to level the playing field between small and large companies.

The NFIB also wants to encourage purchasing pools. We have to give small companies the same decent price for insurance that large companies enjoy. Some win, some lose, but everyone pays a fair price. That is the whole idea of insurance in the first place.

The NFIB is also fighting for guaranteed issue and renewal of health insurance—yet another vital component of real health reform. it is a major step toward making health insurance companies truly accountable to consumers.

These are just a few important changes that would vastly improve the health insurance market in this country. The NFIB supports them, and I support them. To dismiss us as opponents of reform just because we do not buy into the Clinton administration's Rube Goldberg contraption is both cynical and false.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2594

Mr. MITCHELL. Mr. President, I call for the regular order with respect to the Cohen amendment.

The PRESIDING OFFICER. The Cohen amendment is the pending question.

Mr. MITCHELL. In behalf of Senator COHEN, I ask unanimous consent to withdraw the Cohen amendment.

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

The amendment (No. 2594) was withdrawn.

AMENDMENT NO. 2585

Mr. MITCHELL. Mr. President, I call for the regular order with respect to the Gramm amendment.

The PRESIDING OFFICER. The Gramm amendment is in fact the pending question.

Mr. MITCHELL. In behalf of Senator GRAMM, I ask unanimous consent to withdraw the Gramm amendment.

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

The amendment (No. 2585) was withdrawn.

AMENDMENT NO. 2602

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. Without objection, it is so ordered.

The amendment (No. 2602) was withdrawn.

CONCURRENCE EN BLOC TO THE REMAINING AMENDMENTS IN DISAGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur en bloc to the amendments in disagreement.

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

The amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4649) entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert: ", of which $1,500,000 shall be used to provide additional support to title I (chapter I) of the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.) and $910,000 shall be available for the National Learning Center, Options School ($750,000) and Model Early Learning Center ($160,000)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: ; (5) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy decisions may be necessary which may require the agencies to reduce expenditures in other areas; and

(6) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements.

(c) REPORTING ON NONAPPROPRIATED FUNDS.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1994, the Mayor shall submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report on all revenues and expenditures of the general fund of the District that are characterized as nonappropriated in the Comprehensive Annual Financial Report. The report required by this subsection shall include the following information for each category of nonappropriated funds:

(1) The source of revenues:

(2) The object of the expenditures;

(3) An aging of outstanding accounts receivable and accounts payable;

(4) The statutory or other legal authority under which such category of funds may be expended without having been appropriated as part of the District's annual budget and appropriations process;

(5) The date when such category of funds was first expended on a nonappropriated basis;

(6) The policy or rationale for why the revenues and expenditures of such funds should not be part of the District's annual budget and appropriations process; and

(7) A reconciliation of the amounts reported under this subsection with the amounts characterized as nonappropriated in the Comprehensive Annual Financial Report

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter inserted by said amendment,

and

On page 34, line 7 of the House engrossed bill, H.R. 4649, after the word "Mayor" insert "of the District of Columbia",

and

On page 34, line 14 of the House engrossed bill, H.R. 4649, strike "Flow Statements" and insert in lieu thereof "Forecasts",

and

On page 34, line 16 of the House engrossed bill H.R. 4649, strike all after "include" down through and including "the" on line 18 and insert in lieu thereof "revisions to the forecasts reported in accordance with subsection (b) of section 137 of this Act that incorporate the",

and

On page 34, line 4 of the House engrossed bill H.R. 4649, strike "Congress" and insert in lieu thereof: "Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate",

and

On Page 34, line 11 of the House engrossed bill, H.R. 4649, strike "Congress" and insert in lieu thereof "Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment,

and

On page 35 of the House engrossed bill, H.R. 4649, strike all after line 3 through and including line 24,

and

On page 36 of the House engrossed bill, H.R. 4649, strike lines 1 through 8 and insert in lieu thereof the following:

(b) ANNUAL LIMITATION ON DISBURSEMENTS.—

(1) AGGREGATE LIMITATION.—The total disbursements and net payables of the government of the District of Columbia from the funds by paragraph (2) during fiscal year 1995 shall exceed the total receipts collected by the government and available for such funds during fiscal year 1995.

(2) INDIVIDUAL FUND LIMITATIONS.—The disbursements and net payables of the government of the District of Columbia from the general fund and from each of the government's other funds not covered by paragraph (3) during fiscal year 1995 shall not exceed the receipts collected by the government and available for the general fund and for each such fund during fiscal year 1995.

(3) CAPITAL PROJECTS, TRUST AND AGENCY FUNDS LIMITATIONS.—The disbursements and net payables of the government of the District of Columbia from each of the government's capital projects, trust and agency funds during fiscal year 1995 shall not exceed the total of the cash available to each such fund at the beginning of fiscal year 1995 plus the receipts of each such fund during fiscal year 1995.

(c) ENFORCEMENT.—

(1) PLACEMENT IN ESCROW OF PORTION OF ANNUAL FEDERAL PAYMENT.—Upon receipt of the annual Federal payment for fiscal year 1996 authorized by sections 502(a) and 503 of the District of Columbia Self-Government and Governmental Reorganization Act or made pursuant to any other provision of law authorizing a Federal payment to the general fund of the District of Columbia for fiscal year 1996, the Mayor of the District of Columbia shall place in escrow—

(A) 10 percent of the Federal payment, for purposes of enforcement of subsection (a); and

(B) an additional 10 percent of the Federal payment, for purposes of enforcement of subsection (b)(1).

(2) AVAILABILITY OF ESCROWED AMOUNTS.—No portion of the funds placed in escrow under paragraph (1) of this subsection shall be available for use by the government of the District of Columbia until the Mayor submits to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate two reports, each certified by an independent public accountant, on (A) the spending reductions required by subsection (a) of this section, and (B) the disbursements, net payables, and receipts covered by paragraph (1) of subsection (b) of this section. In no event shall the reports required by this paragraph be submitted later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995.

(3) AMOUNTS OF ESCROWED FUNDS AVAILABLE.—Fifteen days after submitting the reports required by paragraph (2), the funds placed in escrow under paragraph (1) shall be available for use by the government of the District of Columbia only if—

(A) the Mayor pays to the Treasury of the United States the sum of—

(i) the amount (if any) by which the actual reduction implemented under subsection (a) fails to achieve the reduction made by paragraph (1) of such subsection; and

(ii) the amount (if any) by which the disbursements and net payables described in subsection (b)(1) exceed the receipts described in such subsection; and

(B) such payment is made by the Mayor within such fifteen-day period from the escrowed funds or, if such escrowed funds are insufficient, from other funds available to the government of the District.

(d) VIOLATION REPORTS.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995, the Mayor, Deputy Mayor for Financial Management, and Controller shall jointly submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a separate report on each fund described in paragraphs (2) and (3) of subsection (b) of this section that violated the limitation applicable to the fund. Each report shall contain, but not be limited to—

(1) the amount of the violation;

(2) an analysis of the difference between the budgeted and actual disbursements, payables, and receipts for fiscal year 1995;

(3) an explanation of policies, events, or other factors that caused or contributed to the violation;

(4) actions taken or to be taken against government officials or employees for causing or contributing to the violation; and

(5) actions taken or to be taken to prevent recurrence of the violation in fiscal year 1996.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "net payables" means the difference in the amount of payables for a fund at the beginning of a fiscal year and the amount of such payables for such fund at the end of the fiscal year;

(2) the term "payables" means accounts payables and compensation payables; and

(3) the terms "disbursements", "accounts payables", "compensation payables", "receipts", "capital projects fund", "trust funds" and "agency funds" shall have the same meaning as such terms had for purposes of the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1993.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment and delete the matter inserted by said amendment,

and

On page 36 of the House engrossed bill, H.R. 4649, strike lines 9 through 11.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of matter proposed in said amendment, insert:

LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS

SEC. 141. (a) REDUCTION.—The total number of full-time equivalent positions financed from District of Columbia appropriated funds shall not exceed 33,588.

(b) MONITORING AND NOTIFICATION.—The Mayor of the District of Columbia shall—

(1) regularly monitor the total number of full-time equivalent positions financed from District of Columbia appropriated funds and make a determination on the first date of each quarter of the fiscal year of whether the requirements under subsection (a) are met; and

(2) notify the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives and the Committee on Governmental Affairs of the Senate on the first day of each quarter of the fiscal year of the determinations made under paragraph (1).

SEC. 142. (a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the Washington Aqueduct. The study shall be conducted in consultation with the Environmental Protection Agency, the Office of Management and Budget, and the non-Federal public water supply customers of the Washington Aqueduct.

(b) STUDY CONTENTS.—The study required by subsection (a) shall include analyses of—

(1) the current condition of the Washington Aqueduct;

(2) the operation and maintenance activities and capital improvements required at the Washington Aqueduct facility to ensure the availability of an uninterruptible supply of potable drinking water sufficient to meet the current and future needs of the District of Columbia and its environs;

(3) alternative methods of financing such operation and maintenance activities and capital improvements; and

(4) alternative arrangements for ownership of the Washington Aqueduct facility, including the operation of establishing a non-Federal regional water authority and transferring ownership and operating responsibility from the Department of the Army to such regional authority or to another appropriate non-Federal entity.

(c) REPORT.—Not later than February 1, 1995, the Secretary of the Army, acting through the Chief of Engineers, shall submit to the Congress a report setting forth the findings of the study required by subsection (a) and any recommendations as a result of the findings. The report shall include a recommendation on the advisability of establishing a non-Federal regional water authority and transferring ownership of and operating responsibility for the Washington Aqueduct facility from the Department of the Army to such regional authority.

(d) DEFINITION.—For purposes of this section, the term "non-Federal public water supply customers of the Washington Aqueduct" means the District of Columbia, Arlington County, Virginia, and the City of Falls Church, Virginia.

ANNUAL BOARD OF EDUCATION REPORT AND BUDGET REVISION

SEC. 143. (a) ANNUAL REPORT ON POSITIONS AND EMPLOYEES.—Hereafter, the Board of Education of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system of the District. The first such annual report shall be verified by independent auditors.

(b) REQUIRED CONTENTS OF ANNUAL REPORT.—The annual report required by subsection (a) shall set forth—

(1) the number of validated schedule A positions in the public school system of the District of Columbia for the following fiscal year on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title pay plan, grade, and annual salary; and

(2) a compilation of all employees in the public school system of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee is actually performing, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(c) SUBMISSION OF ANNUAL REPORT.—

(1) FIRST REPORT.—The first annual report required by subsection (a) shall include the information required by subsection (b)(1) for each of the fiscal years 1993, 1994, and 1995, and shall be submitted to the Congress, and to the Mayor and Council of the District of Columbia, by not later than October 1, 1994.

(2) SUBSEQUENT REPORTS.—Except as provided in paragraph (1), the annual report required by subsection (a) shall be submitted to the Congress, and to the Mayor and Council of the District of Columbia, by not later than April 15 of each year.

(d) ANNUAL BUDGET REVISION.—

(1) IN GENERAL.—Not later than October 1, 1994 and each succeeding year or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act for the fiscal year beginning on such October 1 (whichever occurs first), the Board of Education of the District of Columbia shall submit to the Congress, and to the Mayor and Council of the District, a revised appropriated funds operating budget for the public school system of the District for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(2) REQUIRED FORMAT.—The revised budget required by paragraph (1) shall be submitted in the format of the budget that the Board of Education of the District of Columbia submits to the Mayor of the District for inclusion in the Mayor's budget submission to the Council of the District pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198; D.C. Code, sec. 47-301).

Mr. MITCHELL. Mr. President, have we now completed action on the measure?

The PRESIDING OFFICER. Without objection, the Senate does concur with all the amendments from the House and that does, thereby, conclude action.

Mr. MITCHELL. I thank my colleagues. 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. KOHL. 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. KOHL. Mr. President, many people are happy to see this bill finished and probably none more than Tim Leeth, the appropriations staff member who staffs the D.C. Appropriations Subcommittee. Tim has been invaluable to me in putting together the D.C. budget bill that we are sending to the President today, just as he has been invaluable to many other chairmen of the D.C. Appropriations Subcommittee.

Putting together a decent and fair D.C. budget is a thankless job in this institution, but Tim does it seriously, tirelessly, and well. He makes my job easy and he is indeed a credit to the Senate.

Mr. President, I want to thank all Senators for their restraint and understanding today in allowing this bill to be sent on to the President before the end of the fiscal year. In particular the chairman of the Appropriations Committee, Senator BYRD, and the majority leader, Senator MITCHELL, on our side have once again brought the Senate to the right conclusion at the right time.

The D.C. government was making contingency plans to stop all nonessential services if this bill did not pass. We came very close to closing the public schools in Washington by our inaction, that has been avoided. The city will receive the Federal payment on time and there will be no lapse in its authority to operate the local government. The cuts that we require in the conference agreement will be made, as will the reductions required in the number of employees.

Mr. President, in closing I again want to express to Senators my appreciation and that of the citizens of Washington.

Mr. BYRD. Mr. President, I ask unanimous consent the vote on the conference report be reconsidered and laid on the table.

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

The motion to lay on the table was agreed to.

THE 1995 APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, the Senate has just cleared the last of the 13 fiscal year 1995 appropriations bills—the District of Columbia bill—for the President's signature. This means that all 13 appropriation bills will be enacted by the beginning of fiscal year 1995, which begins just after midnight tonight. This is only the third time in the last two decades that all 13 appropriation bills have been enacted by the beginning of the fiscal year; the other two occasions being 1976 and 1988.

As all Senators know, we who serve on the Appropriations Committees of the House and Senate start out each year with the goal of completing action on our appropriation bills in a timely way. We do our best to avoid the necessity of continuing resolutions. Over the past 6 years, large, omnibus, long-term continuing resolutions have not been necessary. But we have had to have temporary, short-term continuing resolutions each year since 1988 in order to complete action on certain of our appropriation bills.

One key reason for our success this year was the leadership of the chairman of the House Appropriations Committee, Mr. DAVID OBEY of Wisconsin. In my meetings with Chairman OBEY soon after he assumed the chairmanship of the House Appropriations Committee, it was very clear that Mr. OBEY intended to do everything in his power to expedite House action on appropriation bills. That was a very important reason for our success. The Senate Appropriations Committee received all 13 regular appropriations bills from the House in time to mark them up and bring them to the Senate floor well before the August recess. So I wish to thank Mr. OBEY for a very fine, warm, and cordial relationship, which exists between the two of us.

I thank the Senate majority and the Senate minority leader, Senators MITCHELL and DOLE respectively, for their unfailing cooperation in scheduling Senate action for all 13 bills prior to the August recess. I also thank my colleagues on the Appropriations Committee for their cooperation, not just this year, but every year. These chairmen of subcommittees and ranking members and these members of the various subcommittees work long and hard to meet their responsibilities on

the various appropriations subcommittees on which they serve. Our hearings and committee markups are, without exception, conducted on a nonpartisan basis. I thank, most particularly, the very able ranking member of the committee, my good friend and colleague, Senator HATFIELD, for his splendid wisdom and counsel throughout the year. Having served as chairman of the committee for 6 years, MARK HATFIELD is exceptionally knowledgeable in all appropriation matters and he always brings a very well thought out and wise perspective to our deliberations. The committee is indeed fortunate in having MARK HATFIELD as its ranking member.

I also thank all Senators for their cooperation throughout the year. I thank those who raised difficult issues—and there are many difficult issues dealt with on these appropriations bills. All Senators have been cooperative in scheduling debate on their amendments and in understanding that we are often required to compromise, and sometimes to delete items of great interest to them from appropriation bills in our conferences with the other body.

I also appreciate the excellent cooperation of the heads of the various departments and agencies of the administration who came before the committee and presented testimony concerning their budgets. I particularly appreciate the support and cooperation of the Office of Management and Budget and its directors—both Mr. Panetta and Ms. Rivlin. They worked closely with us through each step necessary to enact these appropriation bills.

I thank the fine floor staff for its good work in helping to schedule action on the appropriations bills and helping to move them along by arranging for the times on which to act and for helping us to arrange to get the subcommittee chairmen, the ranking members, and others, to the floor.

Finally, I thank the fine staff which serve both the House and Senate Appropriations Committees. These are very capable men and women who have dedicated themselves to public service. They work long days and many nights and weekends throughout the year in meeting their responsibilities. We in Congress, and, I believe I speak for the American people as well, owe these professional staff people a debt of gratitude.

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

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

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1994

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 537, S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994; that the bill be read three times, passed and the motion to reconsider be laid upon the table; that any statements relating thereto appear in the RECORD at the appropriate place as if read.

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

Mr. LAUTENBERG. Mr. President, today the Senate is considering S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994.

Over the years, my position on interstate garbage restrictions has remained the same. My State has a policy of solid waste self-sufficiency by the end of the decade. Just over the last few years, New Jersey has reduced exports of municipal solid waste by over 50 percent, from 1988 levels.

New Jersey has been able to make these reductions by increasing its recycling efforts and by building additional instate solid waste capacity.

New Jersey has shown that it will continue to move to implement its commitment to self-sufficiency. What New Jersey wants to assure that it will be able to export reduced levels of garbage while it moves towards self-sufficiency.

I have asked the commissioner of the New Jersey Department of Environmental Protection to review S. 2345. The commissioner has told me that New Jersey will be able to implement its self-sufficiency policy under this bill.

So I will not object to consideration of S. 2345.

Mr. DOMENICI. Mr. President, I would like to express my support for this measure which would permit a State's Governor to restrict the disposal of out-of-State municipal solid waste in any landfill or incinerator in his or her jurisdiction with certain limited exceptions. My colleague from Indiana, Senator COATS, deserves tremendous credit for keeping this issue before the public and the Congress in response to an urgent national problem.

I would also offer my congratulations and support to the chairman of the Environment and Public Works Committee, Senator BAUCUS, for his efforts to bring this legislation to the floor.

State and local governments must be able to ensure that their people will have safe and reliable disposal facilities. Not only is this important for the management of municipal waste, but is essential for the protection of limited and precious groundwater resources. This need for protection is of special concern to the people of the West, who are often targeted for disposal of solid waste from more populous and geographically restricted States. I reiterate my support for this bill, and urge my colleagues to do likewise.

Mr. MOYNIHAN Mr. President, it is only with great reluctance that I can bring myself to let this measure come to a vote. Many States have attempted to restrict imports of waste. In fact, at least 37 States have enacted laws that restrict or otherwise treat out-of-State wastes differently than wastes generated within the State. However, when these have been subject to constitutional challenge, the courts have upheld such challenges on the ground that the restriction of interstate commerce, without specific approval by Congress, violates the Constitution's Commerce clause.

Article I, section 8 of the Constitution makes it clear that only the Congress has the power to regulate Commerce with foreign nations, and among the several States, and with Indian Tribes. In its wisdom, Congress has not seen fit to allow States to regulate the interstate transport of waste. I would prefer it not do so now, but the fact is that the House has passed a bill to do so by an overwhelming margin, 368 to 55, and the Senate has passed similar bills in the past two Congresses by like majorities, and seems inclined to do so in this Congress.

The House bill is a draconian measure, extremely harmful to New York. It does not sufficiently protect existing waste disposal contracts. I am unalterably opposed to this bill and will do whatever is necessary to ensure it does not become law.

The Senate bill [S. 2345] is certainly not helpful to New York, but neither is it punitive as is the House bill. And so my able colleague, Senate D'AMATO, and I have reluctantly concluded that the interests of New York State and New York City are best served at this point by allowing the bill reported by the Committee on Environment and Public Works to pass the Senate, thereby avoiding a result far worse for New York. We have consulted representatives of the Governor of New York and the mayor of New York City and they have concurred with this assessment.

Mr. DORGAN. Mr. President, I would like to engage the Senator from Montana in a colloquy on S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994. Although this legislation only deals with the question of granting States authority to control imports of out-of-State municipal waste, does the Senator agree that the matter of interstate transportation of industrial waste is a concern at least in some States and this issue needs further consideration?

Mr. BAUCUS. Yes. I understand that at least in some States, including

North Dakota, the importation of out-of-State industrial waste is a concern. However, more information is needed to better understand this issue. For example, we need to have a better understanding of the sources of industrial waste, where it is shipped and stored. Up until now, the focus of our attention has been on the interstate transportation of municipal waste and we have not fully studied the issues involved with respect to the interstate transportation of industrial waste.

Mr. DORGAN. As chairman of the Senate Environment and Public Works Committee, would the Senator from Montana commit to holding a hearing on this subject next year?

Mr. BAUCUS. Yes. I intend to hold a hearing next year in the Senate Environment and Public Works Committee on the issue of interstate transportation of industrial waste.

In addition, I would be happy to work with the Senator from North Dakota to attain more data and information on issues related to the interstate shipping and storage of industrial waste. I would be willing to join the Senator in inquiring with the General Accounting Office about attaining more information on interstate transportation of industrial waste and ask for their analysis with respect to what problems, if any, should be address by the Congress in the future.

Mr. DORGAN. I should like to thank the Senator for his cooperation and his leadership in this important subject.

RECYCLING

Mr. LAUTENBERG. Mr. President, I want to engage the chairman of the committee in a colloquy concerning the effect of this bill on recycling. It is my understanding that the chairman does not intend for this bill to have any effect on the interstate transportation of recyclable materials.

The bill defines recyclable materials as material that has been separated or diverted from municipal solid waste and has been transported for the purpose of recycling or reclamation. There are recyclers in my State which takes paper from New York City buildings to their recycling facility in New Jersey where it removes unwanted materials and sorts the paper by grade. It places bins in the buildings and identifies the bins for recycled paper. But people put other materials which they think can be recycled beside paper and regular garbage. So there is sorting before material is transported across State lines but a further sorting is conducted after material is transported.

I am concerned that the bill could be interpreted to exclude material from the definition of recycling when further sorting may be needed even though some sorting has occurred before material is transported.

I want to ask whether the Senator will agree that the definition of recycling which talks about material which has been separated includes materials where there has been some sorting even though additional sorting may be necessary after the material has crossed State lines?

Mr. BAUCUS. I agree with the Senator from New Jersey that the bill's definition of recycling includes material where there has been some sorting even though additional sorting may be necessary after material has crossed State lines. I strongly support recycling and do not want this bill interpreted in any way which could adversely affect legitimate recycling efforts.

Mr. LAUTENBERG. I thank the Chairman for his comments.

INTERSTATE WASTE LEGISLATION

Mr. SPECTER. Mr. President, I am pleased that the Senate has turned to this critical environmental issue and I urge my colleagues to support this legislation, the Interstate Transportation of Municipal Solid Waste Act of 1994.

This legislation would provide much-needed relief to Pennsylvania, which is by far the largest importer of out-of-State waste in the Nation. According to the Pennsylvania Department of Environmental Resources, 3.8 million tons of waste came into Pennsylvania in 1992 and 4.1 million tons of out-of-State waste entered my State in 1993. Most of this trash came from other States in the Northeast; in 1993, New York and New Jersey were responsible for 3.2 million of the 3.8 million tons imported into my Pennsylvania.

This legislation would go a long way toward resolving the landfill problems facing Pennsylvania, Indiana, and similar waste importing States. I am personally familiar with the anxiety that the landfill crisis provokes in local communities. On several occasions, I have met with Lackawanna County officials, environmental groups representatives, and other residents of northeastern Pennsylvania to discuss the solid waste issue. The Empire landfill, Pennsylvania's largest, is located in Lackawanna County, and I came away from those meetings impressed by the deep concerns expressed by the area's residents.

Recognizing the recurrent problem of landfill capacity in Pennsylvania's 67 counties, since 1989 I have pushed to resolve the interstate waste crisis. In 1989 and 1991, I joined my late colleague, John Heinz, to introduce the Solid Waste Disposal Act amendments, which would have provided incentives for States to devise realistic long-term plans for handling solid waste disposal.

I also supported the Interstate Transportation of Municipal Waste Act of 1992, which passed the Senate by an 89–2 vote in July 1992. That bill would have allowed a Governor, at the request of a local government, to prohibit the disposal of out-of-State municipal waste in any landfill or incinerator within its jurisdiction. The House failed to take action on that bill, leaving it to this Congress to act on this issue.

Building on our near-success in 1992, I joined Senator COATS in trying to jumpstart the process when we and 16 of our colleagues introduced bipartisan interstate waste legislation on February 25, 1993. That bill was modeled on the waste legislation which passed the Senate in July 1992 by an overwhelming margin. Nonetheless, it has taken 19 months for the Senate to have the opportunity during the 103d Congress to consider this much-needed interstate waste legislation.

The legislation we are considering today builds upon the 1992 legislation that passed by an 89–2 vote and the Coats-Specter bill introduced 19 months ago. I am confident that it will empower States to deal with their solid waste more effectively because it would provide every State with significant new authority to restrict imports of out-of-State municipal solid waste.

Without Federal legislation to empower States to restrict cross-border flows of garbage, States such as Pennsylvania inevitably end up as the dumping ground for States that have been unwilling to enact and enforce realistic long-term waste management plans. While we have heard that these States are making some progress, some continue to ship increasing amounts of waste to Pennsylvania landfills.

This legislation will lead to significant reductions in the amounts of out-of-State waste imported into Pennsylvania and other States. According to Governor Casey's office, when the provisions are fully in effect, it should result in reductions as high as one-half of 1993 import levels.

Let me explain how this will be accomplished. First, the legislation allows a Governor to freeze unilaterally out-of-State waste at 1993 levels at landfills and incinerators that received waste in 1993. In addition, a Governor may unilaterally ban out of State waste from any State exporting more than 3.5 million tons in 1995, going down to 1 million tons in 2002 and thereafter. Another provision, known as the import state ratchet, provides that a Governor may restrict waste imported from any one State in excess of 1.4 million tons in 1995, down to 600,000 tons in 2001 and thereafter. This provision provides a concrete incentive for the largest exporting States to get a handle on their solid waste management immediately.

It is important to note that this legislation explicitly protects State contract law and protects host community agreements. It also authorizes restrictions on waste imported from Canada if doing so is found by the President to be consistent with NAFTA and GATT.

I am glad that the Senate has once again had the opportunity to consider

79-059 O—97 Vol. 140 (Pt. 19) 28

this much-needed interstate waste legislation, which will improve the quality of life in Pennsylvania. We must make a vigorous war on waste and I believe that we are moving in the right direction in making the environment one of our critical priorities.

Mr. CONRAD. Mr. President, I am pleased that the Senate today is considering S. 2345, legislation to give States and local governments the power to regulate and, if they so choose, reject, interstate shipments of municipal solid waste. I fully support S. 2345 and hope the Senate will approve it.

This is a problem I and others in the Senate have been working on for many years. Twice, the Senate has passed legislation addressing this issue, but we still do not have a law allowing regulation of interstate waste. It is time to take action that will finally give to the people of our States the power to decide whether or not to receive out-of-State waste.

Waste imports are a growing problem in our country, with an estimated 15–18 million tons of municipal solid waste traveling across State lines each year. Around the country, landfills are filling up and communities are now looking to send their trash to rural States like North Dakota. In rural areas, land is cheap and small communities usually do not have the resources to fight off giant waste companies who want to site new landfills. In addition, some small communities may be willing to take huge amounts of money from a waste company in exchange for landfill space.

Whether they want this imported waste or not, States are almost powerless to stop the flow of garbage across their borders. The Supreme Court has clearly ruled that States may limit interstate waste, but only if they are expressly given this power by Congress. S. 2345 would give the States this power.

States should be able to regulate how much solid waste comes into the State so that they can implement effective waste disposal policies. The Federal Government requires the States to manage and oversee solid waste disposal programs. States are required to issue permits, monitoring existing sites, and enforce landfill regulations. Why, then, should States not also be able to regulate how much waste comes in from out of State? It only makes sense that they have this power.

Imported waste not only takes up precious landfill space, but it also puts a strain on services of the importing State without properly compensating that State. Waste trucks from out of State wear down the roads of the importing States, but the exporting community pays nothing for the maintenance of these roads. Similarly, States must spend money to run their solid waste program, but they get no additional payments for accepting out of State waste. In other words, exporting communities are passing on their waste problems, and the costs associated with them, on to importing States. This isn't fair, and it should change.

Locally affected communities also must have a say in whether or not to accept imported waste. Waste affects more than just the single town that hosts a disposal site. It affects the entire surrounding area, posing a potential threat to aquifers, surface waters, air quality, road quality, soil quality, the list goes on and on. A decision on siting a solid waste landfill, especially one that will take large amounts of imported waste, must be a collective one. A small community alone should not be able to make a decision that will affect so many people.

Mr. President, the bill before us accomplishes the goal of giving States and local communities the authority to regulate imported waste. The bill is not as strong as I would have liked. I believe both Governors and local communities should have even greater authority. Nevertheless, S. 2345 builds on what the Senate has done in the past and goes a long way toward solving the interstate waste problem.

Specifically, it gives Governors the authority to freeze waste imports at current levels, and it allows Governors to reject waste shipments aimed at communities that do not want them. In addition, it requires that waste companies fully disclose their plans for waste disposal if they want to enter into an agreement with a host community. This will allow the community to make a fully informed decision on whether to take imported waste.

This last provision is particularly important, and I worked closely with Senator BAUCUS to have it included. In my State, we have many small communities that are economically depressed and desperate for economic opportunity. Waste companies prey on communities like these. The companies polish their image and hold up the promise of jobs and economic incentives. However, they never reveal the potential risks involved in their plans, and, in many cases, they don't even reveal their overall plans until it is too late to stop them. One practice I have seen involves having a local developer purchase a site and get a permit to dispose of modest amounts of solid waste. The big waste company then buys out the local party and aggressively expands the site's permit. The local community doesn't have a chance. This isn't fair and cannot be allowed to continue. Communities need to make informed choices, so we should require full disclosure of all relevant information prior to any decision being made.

Some of my colleagues may think that interstate waste is not a problem. They should think again. The trash is coming—by truck, by train, by barge—from all over the country. If it hasn't come to your State today, you can be sure that it will tomorrow. States and locally affected communities must have the power to manage waste in the most effective manner possible. In addition, giving States and communities the power to regulate waste imports will provide a powerful incentive for exporting communities to reduce their waste stream and increase recycling.

The House recently passed its own bill regulating interstate waste. I urge the Senate to work quickly with the House to arrive at a compromise that can be enacted into law so that we can finally provide States and local communities with the authority they so desperately need.

Mr. BAUCUS. Mr. President, I am pleased that the Senate is considering S. 2345, the Interstate Transportation of Municipal Waste Act of 1994. This bill will give our States the authority they need to regulate shipments of garbage between States. It was unanimously approved on June 23 of this year by the Environment and Public Works Committee.

We have been working on this issue for 5 years. We have explored all options in an effort to find a workable solution. We have held hearings on interstate waste issues. We included interstate provisions in the RCRA bill we reported last Congress.

And we passed a stand alone interstate bill by a vote of 89 to 2 last Congress. Unfortunately that bill died in the House. But I am hopeful that the bill we pass today will win the approval by the House and be enacted into law.

This bill builds on last year's proposal. It is a balanced approach to a problem that our States cannot solve without congressional action. The Supreme Court repeatedly has struck down State laws aimed at restricting out-of-State garbage, because these laws violate the Constitution's interstate commerce protections.

Not many people think of garbage as a valuable commodity like other products traded in interstate commerce—but it is:

Every year, the United States produces more than 200 million tons of municipal waste. Seven percent of this garbage—1 ton in 14— is sent to a landfill or incinerator in another State for a price.

Nearly every State is both a willing seller and a willing buyer in the municipal waste market: 43 States some export some garbage, and 42 States import some.

When you think about it, trading garbage makes some sense especially for border towns. In Montana for example, two towns have made arrangements to share landfills with western North Dakota towns. And some trash from Yellowstone Park is disposed in Montana. These arrangements save

money to communities. Moreover, these shared regional landfills are the waive of the future.

But no city or State should be allowed to become a dumping ground simply because an exporting community does not have the will to build a new landfill. While interstate commerce is a protected right of the Constitution, not in my backyard or NIMBY is not a protected right—nor should it be.

The bill before us today helps all States address their trash problems. The effect of this bill will be to reduce exports over time.

More importantly, it will ensure that in the future exports to landfills and incinerators in other States will be an option only if the community wants it.

Simply stated, this bill gives States and communities the power to decide what's best for them: Accepting garbage from other States—or refusing it.

Moreover, it will put pressure on the Nation's largest exporting States to cut their exports by specific amounts or importing States will be able to ban their exports altogether. It puts pressure on exporting States to take care of their own needs so there will be less pressure to export garbage to neighboring States.

This bill strikes the balance that I believe is needed to make interstate waste shipment legislation work for every community. It achieves this by letting Governors stem the rising tide of incoming garbage without forcing communities that now rely on this commerce to scramble.

AUTHORITY FOR STATES

The cornerstone of this bill is the added authority for all States. It lets every Governor freeze future shipments of garbage at the amounts received in 1993, no more than what was received in 1993. Unlike the bill passed last Congress, under this bill a Governor does not need to wait for a request for action from the local community to freeze imports. It can do it on its own.

At landfills or incinerators that did not receive out-of-State waste in 1993, any Governor may ban out-of-State garbage at landfills or incinerators if the local community does not want it.

To give every community incentive to reduce waste, the bill has a mechanism to force large exporting States to reduce their exports. What are they? Under the bill no State may export: more than 3.5 million tons of municipal waste in 1995; more than 3 million tons in 1996 and 1997; more than 2.5 million tons in 1998 and 1999; more than 1.5 million tons in 2000 and 2001; and more than 1 million tons in the year 2002 and beyond.

If a State does not meet these reductions, then any Governor may ban out-of-State garbage coming from that State. Not only will this help reduce exports, it will add some marketplace muscle by rewarding recycling and other efforts to cut the amount of garbage we produce in this country.

Finally, to ensure that no State becomes a dumping ground for any other State, the bill authorizes a Governor to limit the amount of waste exported to another State. Under the bill, by the year 2001 and each year thereafter no State may export more than 600,000 tons to another State.

This bill puts both local communities and States in the position to decide whether to accept more out-of-State garbage. It is their decision. The only way new imports would be allowed is if the affected local community agrees to take out-of-State waste and enters into what we are calling a "host community agreement."

While everyone agrees that "host community agreements" are desirable, one concern has been that a very small community could enter into such an agreement when the larger community opposes it. To protect against that, the bill allows the Governor to decide which local entity can enter into new agreements.

But one a so-called host community agreement is in place it will be protected from any interstate restrictions unless it violates a State's solid waste management plan.

In addition, new "host community agreements" must be very specific. Not only must they allow for out-of-State waste they must also specify the amounts allowed. And before they can be executed, the public must be notified and given an opportunity for comment.

I believe the result of this bill will be to give States better control of their borders, and local communities more say over what happens in their backyards.

This is a rational way to deal with a real problem that does not have the perverse effects of broader proposals that give State or local government blanket power to stop all interstate waste shipments immediately. It provides balance. It is common sense. It is all or nothing. It is a worked out combination and solution.

It will provide importing States the authority to restrict imports, and it will require exporting States to reduce their exports.

It will accomplish this in an orderly way without disrupting beneficial existing arrangements or lead to illegal disposal. And mostly it will give people in local communities more control over their own lives.

Mr. President, S. 2345 as unanimously approved by the Environment and Public Works Committee, is a good and responsible bill that addresses the needs of State and local communities in a balanced way.

Mr. President, I give special thanks to many Senators for their very, very hard work to help resolve this very vexing, not very glamorous but very vexing issue.

Special thanks go to Senator COATS of Indiana, a tireless worker, to resolve this, Senator WOFFORD for his diligence and perseverance to try to find solutions, particularly in his home State; Senator LAUTENBERG of New Jersey, another member of our committee for his hard work; Senator MOYNIHAN, the chairman of the Committee on Finance; Senator CHAFEE of Rhode Island, the ranking member of our committee; and as well as Senator ROBB of Virginia, whose State has a direct interest in this bill.

Mr. President, they worked long and hard to finally have this bill passed. I am hopeful in the remaining few days we can work out other arrangements in a similar bill in both the House and Senate so our people can have more control over their lives.

So the bill (S. 2345) was passed, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Solid Waste Act of 1994".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(D) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(E), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may prohibit the disposal of out-of-State municipal solid waste, at any landfill or incinerator covered by the exceptions in subsection (b) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under paragraph (6)(E) as having exported, to landfills or incinerators not covered by host community agreements, more than—

"(i) 3.5 million tons of municipal solid waste in calendar year 1995;

"(ii) 3.0 million tons of municipal solid waste in each of calendar years 1996 and 1997;

"(iii) 2.5 million tons of municipal solid waste in each of calendar years 1998 and 1999;

"(iv) 1.5 million tons of municipal solid waste in each of calendar years 2000 and 2001; and

"(v) 1.0 million tons of municipal solid waste in calendar year 2002 and each year thereafter.

"(B) No State may export more than 1.4 million tons of municipal solid waste to any one State in calendar year 1995 or 90 percent of the 1993 levels exported to a State, whichever is greater, 1.3 million tons in 1996 or 90 percent of the 1995 levels exported to a State, whichever is greater, 1.2 million tons in 1997 or 90 percent of the 1996 levels exported to a State, whichever is greater, 1.1 million tons in 1998 or 90 percent of the 1997 levels exported to a State, whichever is greater, 1 million tons in 1999, 800,000 tons in 2000, and 600,000 tons in 2001 and each year thereafter, to landfills or incinerators not covered by host community agreements. Governors of importing States may restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(i) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior to enforcement of the importing State's intention to impose the requirements of this section;

"(ii) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to the enforcement of this section; and

"(iii) the restrictions imposed by the Governor of the importing State must be uniform at all facilities.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(E).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6)(A)(i) Any Governor who intends to exercise the authority provided in paragraph (2) or (3) shall, within 120 days after the date of enactment of this section, and on the same day of each year thereafter, submit to the Administrator information documenting the State of origin and the quantity of out-of-State municipal solid waste received for disposal at landfills and incinerators covered by the exceptions provided in subsection (b) in the State of such Governor during calendar year 1993.

"(ii) The Administrator is authorized and directed to collect such additional information in addition to what is submitted under clause (i) as may be necessary to determine if the level of exports of municipal solid waste by any State exceeds the level established in subparagraph (A) or (B) of paragraph (3).

"(B) On receipt of the information submitted or collected pursuant to subparagraph (A), the Administrator shall notify the Governor of each such State and the Governors of States with exports that exceed the level of exports of municipal solid waste established in subparagraph (A) or (B) of paragraph (3) and shall publish notice and shall provide a comment period of not less than 30 days.

"(C) Not later than 60 days after receipt of information from a Governor, and any additional information obtained by the Administrator, under subparagraph (A), the Administrator shall determine the quantity of out-of-State municipal solid waste that was received for disposal in the State during calendar year 1993, the State of origin and the total amount of municipal solid waste exports from each State that exceeds the level established in subparagraph (A) or (B) of paragraph (3), and the quantity of out-of-State municipal solid waste received for disposal at landfills and incinerators covered by the exceptions provided in subsection (b) in the State of such Governor during calendar year 1993. The Administrator shall publish a public notice and shall provide direct notification to each of the Governors of all States affected by this determination, for each such State for which the determination is made. A determination by the Administrator under this subparagraph shall be final and not subject to judicial review.

"(D) Not later than 180 days after the date of enactment of this section, the Administrator shall publish a list of the quantity of out-of-State municipal solid waste that was received during calendar year 1993 at each landfill and incinerator covered by the exceptions provided in subsection (b) for disposal in each State in which the Governor intends to exercise the authority provided in paragraph (2) or (3), as determined in accordance with subparagraph (C).

"(E) Not later than March 1, 1996, and on March 1 of each year thereafter, the Administrator shall publish a list of States that the Administrator has determined have exported out of State an amount of municipal solid waste in excess of 3.5 million tons in calendar year 1995, 3.0 million tons in each of calendar years 1996 and 1997, 2.5 million tons in each of calendar years 1998 and 1999, 1.5 million tons in each of calendar years 2000 and 2001, and 1.0 million tons in calendar year 2002 and each year thereafter, as determined in accordance with subparagraph (C).

"(F) Not later than March 1 of each year after the date of enactment of this section, or as required by State law, the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the Governor of the State in which the landfill or incinerator is located information specifying, by State of origin, the amount of out-of-State municipal solid waste received for disposal during the preceding year. Each year the Governor of a State who intends to exercise the authority provided in paragraph (2) or (3) shall publish and make available to the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year.

"(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action on a host community agreement shall, prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period, provided that such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(e) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2)(A) The term 'host community agreement' means, with respect to any agreement entered into on or after June 23, 1994, a written, legally binding document or documents executed by duly authorized officials of the affected local government that expressly authorizes a landfill or incinerator to receive specified amounts of municipal solid waste generated out of State.

"(B) The term 'host community agreement' means, with respect to any agreement entered into before June 23, 1994, a written, legally binding document or documents executed by duly authorized officials of the affected local government expressly authorizing a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included. For purposes of a host community agreement entered into before June 23, 1994, such agreement may use a term other than 'out-of-State', provided that any alternative term or terms evidence the approval or consent of the affected local government for receipt of municipal solid waste from sources or locations outside the State in which the landfill or incinerator is located or is proposed to be located.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. To the extent that the President determines it is consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001, or any solid waste containing polychlorinated biphenyls regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.".

SEC. 3. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

AUBURN INDIAN RESTORATION ACT

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 582, H.R. 4228, a bill to extend Federal recognition to the United Auburn Indian Community.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 4228) to extend Federal recognition to the United Auburn Indian Community.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Auburn Indian Restoration Act".

SEC. 2. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this Act shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under Public Law 85-671 are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, and without regard to the existence of a reservation,

the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area of the Tribe shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this Act shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 3. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 7, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 4.

SEC. 4. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including any outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the service area of the Tribe pursuant to the authority of the Secretary under the Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or the Indian heirs or successors in interest of such distributees or dependent members.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the reservation of the Tribe.

SEC. 5. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 7, an individual shall be placed on the membership roll compiled under this section if the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the name of the individual was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671;

(B) the individual was not listed on, but met the requirements that the individual was required to meet to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After the adoption of a tribal constitution pursuant to section 7, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll of the Tribe shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 6. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 7, the governing body of the Tribe shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution of the Tribe adopted on July 20, 1991, to the extent that such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 5(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 7. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 5(a), and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), except that absentee balloting shall be permitted without regard to voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted in accordance with the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 6.

(4) The term "member" means any person meeting the enrollment criteria under section 5(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 4.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

SEC. 9. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this Act.

AMENDMENT NO. 2603

(Purpose: To provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama)

Mr. COATS. Mr. President, on behalf of Senator INOUYE, 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 Indiana [Mr. COATS], for Mr. INOUYE, proposes an amendment numbered 2603.

Mr. COATS. Mr. President, I ask unanimous consent that the amendment be considered as read.

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

The amendment is as follows:

On page 9, between lines 9 and 10, insert the following:

TITLE I—AUBURN INDIAN RESTORATION

On page 9, line 10, strike "section 1" and insert "sec. 101".

On page 9, lines 11 and 20, strike "Act" each place it appears and insert "title".

On page 9, line 13, strike "2" and insert "102".

On page 10, lines 16 and 24, strike "Act" each place it appears and insert "title".

On page 11, line 3, strike "3" and insert "103".

On page 11, line 11, strike "7" and insert "107".

On page 11, lines 19 and 20, strike "4" each place it appears and insert "104".

On page 12, line 23, strike "5" and insert "105".

On page 13, lines 4 and 24, strike "7" each place it appears and insert "107".

On page 14, line 14, strike "6" and insert "106".

On page 14, line 16, strike "7" and insert "107".

On page 15, line 1, strike "5(b)" and insert "105(b)".

On page 15, line 4, strike "7" and insert "107".

On page 15, line 6, strike "5(a)" and insert "105(a)".

On page 15, line 22, strike "8" and insert "108".

On page 15, line 23, strike "Act" and insert "title".

On page 16, line 7, strike "6" and insert "106".

On page 16, line 9, strike "5(b)" and insert "105(b)".

On page 16, line 14, strike "4" and insert "104".

On page 16, line 18, strike "9" and insert "109".

On page 16, after line 20, add the following new title:

TITLE II—CHOCTAW INDIANS RECOGNITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

SEC. 202. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

SEC. 203. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) CONGRESSIONAL APPROVAL.—(1) Congress finds that under the treaties entered into by the ancestors of the Mowa Band of the Choctaw Indians all historical tribal lands were ceded to the United States.

(2) Congress hereby approve and ratifies such cession effective as of the date of the such cession and such cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaw Indians, if any, in such lands as of the date of the cession.

(3) By virtue of the approval and ratification of the cession of such lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaw Indians, including claims for trespass damages or claims for use and occupancy, arising subsequent to the cession that are based upon any interest in or right involving such land, shall be considered as extinguished as of the date of the cession.

(c) CLAIMS.—(1) The Mowa Band of Choctaw Indians may not be considered to have a historical land claim.

(2) The Mowa Band of Chowtaw Indians may not use the Federal recognition provided to the Mowa Band of Choctaw Indians under this Act to assert any historical land claim.

(3) As used in this subsection the term "historical land claim" means a claim to land based upon—

(A) a contention that the Mowa Band of Choctaw Indians, or its ancestors, were the native inhabitants of such land;

(B) the status of Mowa Band of Choctaw Indians as native Americans; or

(C) the Federal recognition of the Mowa Band of Choctaw Indians, as provided by this title.

(d) STATUTORY CONSTRUCTION.—Except as otherwise specifically provided in section 204 or any other provision of this title, nothing in this title may be construed as altering or affecting—

(1) any rights or obligations with respect to property;

(2) any rights or obligations under any contract; or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 204. LANDS.

(a) IN GENERAL.—All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States to be held in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b) INTERESTS.—(1)(A) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act.

(B) Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) RESERVATION.—Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of the Mowa Band of Choctaw Indians of Alabama.

(d) FINDINGS.—Congress finds that the provisions of this section—

(1) are enacted at the request of the Mowa Band of Choctaw Indians of Alabama; and

(2) are in the best interest of such Band.

SEC. 205. SERVICES.

The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of the residence of any member of the Band on or near any Indian reservation.

SEC. 206. CONSTITUTION AND BYLAWS.

(a) IN GENERAL.—The Mowa Band of Choctaw Indians of Alabama may organize for the common welfare of the Band and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) FILING.—Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior.

SEC. 207. MEMBERSHIP.

(a) IN GENERAL.—Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of each individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) AFTER THE ADOPTION OF A CONSTITUTION.—After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such constitution or any bylaws adopted under such constitution.

SEC. 208. REGULATIONS.

The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this title.

Mr. COCHRAN. Mr. President, I oppose an amendment that is being offered to H.R. 4228, the Auburn Indian Restoration Act, which would grant Federal recognition to the Mowa Band of Choctaw Indians of Alabama.

The matter of granting legislative recognition to nonrecognized groups of Indian people is clearly a controversial issue. As I have stated in the past, I believe all groups seeking recognition should go through the Federal acknowledgment process in the Department of the Interior and meet the established criteria. Legislative action creates a dual system for recognition, one system in which the Congress applies no criteria, and one system in which the Interior Department applies a set of established criteria. Congress should not grant Federal recognition due to the inconsistency and unfairness it creates among petitioning groups.

As a member of the Interior Appropriations Subcommittee, I am aware that funding for Indian programs lags far behind equivalent Federal programs. Native Americans suffer the worst conditions of unemployment, the lowest life expectancy, and least adequate education of all national groups.

Our Government has a responsibility to Native Americans based on treaties, statutes and Federal court rulings. Federal acknowledgment establishes a perpetual Government-to-Government relationship between the tribe and United States, which has major political, social, and economic implications for the petitioning tribe and Federal, State, and local governments.

Congress has created special programs for federally recognized tribes, including housing, educational assistance, social services, and medical benefits. To qualify for the protection, benefits, and services available to federally recognized tribes, a group must satisfy the requirements for recognition established by the Department of the Interior. These qualifications are as follows:

First, the Indian group is identifiable by historical evidence, written or oral, as being an American Indian tribe;

Second, its members must have existed as a distinct Indian community throughout history until the present.

Third, the Indian group must have maintained political influence over its members as an autonomous entity throughout history until the present;

Fourth, the membership of the group is composed principally of persons who are not members of any other Indian tribe; and

Fifth, the tribe has not been the subject of congressional legislation expressly terminating their relationship with the Federal Government.

While the 3,000 members of the Mowa group deserve every benefit and protection afforded by our constitutional system, I do not support legislation that would entitle the Mowa to all federally funded services by circumventing the established administrative recognition

process—a process developed in 1978 with the support of Indian tribal governments, Congress, and the administration to ensure objective and uniform evaluation.

According to a 1992 statement by the Congressional Budget Office, the cost of the Mowa legislation to the American taxpayers is estimated at $10 million a year. This expenditure would have a profound effect on federally recognized tribes which have met the established requirements I previously listed.

I believe it is a bad precedent to depart from the existing requirements of law in controversial recognition cases. It creates an exception based on evidence that is in sharp dispute regarding the legitimacy of petitions. I hope the Senate will exercise restraint in the future when considering exceptions to the rule.

I am, however, not opposed to the Mowa Tribe seeking Federal recognition. I merely believe that the tribe should follow the same recognition process as other groups petitioning the Federal Government. The Federal acknowledgment process does not seek to determine if an individual is or is not Indian, it merely establishes the authenticity of a sovereign legal entity.

Senator MCCAIN and I introduced S. 1844, the Indian Federal Recognition Administrative Procedures Act of 1994, to improve and strengthen the administrative recognition process. If the current administrative process needs reform, then we as Members of Congress should place a stronger emphasis on comprehensively correcting the process, not circumventing the current system.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2603) was agreed to.

Mrs. FEINSTEIN. Mr. President, I rise today in support of restoring Federal recognition to the United Auburn Indian community of the Auburn Rancheria of California.

I applaud the action taken by the Senate in passing this legislation that is so vital to the tribe's future. I also want to commend Chairman INUOYE, the members of the Indian Affairs Committee and the committee staff for expediting consideration of this legislation.

The Auburn Tribe lost its Federal recognition in 1958, when the Federal Government adopted a termination policy that allowed it to sever its trust relationship with tribes throughout the country, including 41 California rancherias.

Legislative action to restore recognition has been ongoing since 1973, when now-Assistant Secretary for Indian Affairs Ada Deer led the fight to restore recognition to a tribe in Wisconsin. Recently, restoration was restored to the Tillie-Hardwick Tribes in California. In addition, 10 other terminated California tribes have regained their Federal recognition status. However, 14 California tribes remain terminated.

The United Auburn Indian community is one of those tribes. It is a community that, against the odds, has remained intact, despite long years of termination. While they have been forced by financial difficulties to give up a portion of their original rancheria, members of the Auburn Indian community have held their tribe together on 22 of their reservation's original 44 acres. Sixty of the 125 tribal members are living on what remains of their land.

The United Auburn Indian community is a tribe that had trouble coming up with the money to fax my office copies of the community letters of support for this bill. They have not had an easy time of it since their recognition was terminated almost 36 years ago to the day. But please don't get me wrong—this tribe is not looking for a government handout. What they want—and what they deserve—is to regain their rightful status as a federally recognized tribe.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, 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:

H.R. 4228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUBURN INDIAN RESTORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Auburn Indian Restoration Act".

SEC. 102. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under Public Law 85-671 are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area of the Tribe shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 103. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 107, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 104.

SEC. 104. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including any outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the service area of the Tribe pursuant to the authority of the Secretary under the Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or the Indian heirs or successors in interest of such distributees or dependent members.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the reservation of the Tribe.

SEC. 105. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 107, an individual shall be placed on the membership roll compiled under this section if

the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the name of the individual was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671;

(B) the individual was not listed on, but met the requirements that the individual was required to meet to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After the adoption of a tribal constitution pursuant to section 107, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll of the Tribe shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 106. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 107, the governing body of the Tribe shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution of the Tribe adopted on July 20, 1991, to the extent that such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 105(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 107. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 105(a), and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), except that absentee balloting shall be permitted without regard to voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted in accordance with the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 106.

(4) The term "member" means any person meeting the enrollment criteria under section 105(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 104.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

SEC. 109. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE II—CHOCTAW INDIANS RECOGNITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

SEC. 202. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

SEC. 203. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) CONGRESSIONAL APPROVAL.—(1) Congress finds that under the treaties entered into by the ancestors of the Mowa Band of the Choctaw Indians all historical tribal lands were ceded to the United States.

(2) Congress hereby approve and ratifies such cession effective as of the date of the such cession and such cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaw Indians, if any, in such lands as of the date of the cession.

(3) By virtue of the approval and ratification of the cession of such lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaw Indians, including claims for trespass damages or claims for use and occupancy, arising subsequent to the cession that are based upon any interest in or right involving such land, shall be considered as extinguished as of the date of the cession.

(c) CLAIMS.—(1) The Mowa Band of Choctaw Indians may not be considered to have a historical land claim.

(2) The Mowa Band of Chowtaw Indians may not use the Federal recognition provided to the Mowa Band of Choctaw Indians under this Act to assert any historical land claim.

(3) As used in this subsection the term "historical land claim" means a claim to land based upon—

(A) a contention that the Mowa Band of Choctaw Indians, or its ancestors, were the native inhabitants of such land;

(B) the status of Mowa Band of Choctaw Indians as native Americans; or

(C) the Federal recognition of the Mowa Band of Choctaw Indians, as provided by this title.

(d) STATUTORY CONSTRUCTION.—Except as otherwise specifically provided in section 204 or any other provision of this title, nothing in this title may be construed as altering or affecting—

(1) any rights or obligations with respect to property;

(2) any rights or obligations under any contract; or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 204. LANDS.

(a) IN GENERAL.—All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States to be held in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b) INTERESTS.—(1)(A) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act.

(B) Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) RESERVATION.—Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of the Mowa Band of Choctaw Indians of Alabama.

(d) FINDINGS.—Congress finds that the provisions of this section—

(1) are enacted at the request of the Mowa Band of Choctaw Indians of Alabama; and

(2) are in the best interest of such Band.

SEC. 205. SERVICES.

The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of the residence of any member of the Band on or near any Indian reservation.

SEC. 206. CONSTITUTION AND BYLAWS.

(a) IN GENERAL.—The Mowa Band of Choctaw Indians of Alabama may organize for the common welfare of the Band and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) FILING.—Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior.

SEC. 207. MEMBERSHIP.

(a) IN GENERAL.—Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of each individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) AFTER THE ADOPTION OF A CONSTITUTION.—After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such

constitution or any bylaws adopted under such constitution.

SEC. 208. REGULATIONS.

The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this title.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. 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. COATS. Mr. President, the Senate has just passed a measure which allows States and communities the right to say no to out-of-State trash. This issue has become quite well known to this body over the past 4 years. During that time, the Senate has spoken twice, and now today for the third time, passing legislation by significant bipartisan margins which will allow States and communities to restrict unwanted trash imports.

This is an issue that first came to light nearly 4 years ago, brought to my attention as I traveled throughout the State by small communities that found themselves unwanted recipients of unwanted out-of-State trash. Centerpoint, IN, became a national story as trash was moved from east to west in a daily flow that was quickly overwhelming their landfill.

As a consequence of that, I brought legislation to this floor, as I said, over the past 4 years in a tortured journey. This legislation has twice passed the Senate but failed to pass the House of Representatives.

The House has now passed similar legislation, and the Senate's action today means that we have taken a giant step forward in enacting into law legislation that gives our States and our communities jurisdiction and power over the unwanted flow of out-of-State trash.

This legislation accomplishes three essential things. No. 1, it gives States and communities the power to say no to new shipments of out-of-State trash. No. 2, it allows continued trash shipments to a limited universe of landfills that meet all Federal and State standards for environmentally sound facilities. And No. 3, it provides that no landfill becomes a target for out-of-State trash by giving all States the ability to freeze volumes at grandfathered facilities.

We all know the problem with our landfills. Landfill space is continuing to fill up with trash, much of it imported, which endangers the ability of a State and community to take care of its own needs and to plan for its own future in terms of how they dispose of their own waste. We do recognize that exporting States need time to take care of their own problems. The question is how much time they need and in solving their problem do they create a problem somewhere down the road.

In 1990, Thomas Jorling, the commissioner of New York's Department of Environmental Protection, testified before the Senate Environment Committee that New York would be self-sufficient in solid waste management by the turn of the century.

Jorling went on to reason:

States like New York can proceed with environmentally sound solid waste management programs only if the export option is available on a short term basis until temporary capacity crises and relieved. We strongly believe that State and local governments should be self sufficient and eventually develop all of their capacity in State.

We have been working to gain a resolution of this issue for over 4 years now. Political will to solve the crisis in exporting States, is necessary if we are to succeed. Consider the case of Pennsylvania where it took less than 3 years to move from less than 2 years landfill capacity to greater than 10 years.

In this Nation, we have unintentionally created a system which penalizes States that have mustered the political will to handle their own waste disposal needs. But it still provides no penalties for exporting States which drag their feet on dealing with their own trash.

INDIANA SITUATION

In my State, we have a very ambitious State solid waste management plan which will be overwhelmed if we are not able to regulate the flow of waste into our State.

My State faces the urgency of a ticking clock—we have less than 5 years landfill capacity left.

During 1993, over 820,000 tons of trash produced in other States were buried in Indiana soil.

Indiana had 150 landfills in 1980. Today, 64 remain.

Despite our best efforts to manage our own solid waste, we are still faced with a simple fact: We can't control our future if we can't control our borders.

In Indiana we are taking care of our own trash. We ask only that every State be environmentally responsible and accountable for the trash it generates.

CONSTITUTIONAL PROBLEM

State legislatures have tried to take care of the interstate waste problem but their ability to act effectively is limited. Each time States attempt to address this situation, the courts have ruled the State laws unconstitutional

The Courts have done so because the Courts have ruled that trade is protected by the commerce clause of the constitution and that States cannot enact laws interfering with that trade.

In June 1992, the Supreme Court handed down a decision reaffirming that only Congress possesses the constitutional mandate to regulate trade between the States.

In Fort Gratiot Sanitary Landfill Inc. versus Michigan the court reviewed a Michigan statute that allows the State's counties to regulate out-of-State and out-of-county waste disposal. The court struck down the statute as an unconstitutional interference with interstate commerce.

In his dissent in Fort Gratiot, the Chief Justice of the Supreme Court, William Rehnquist stated that he saw no reason in the commerce clause that requires certain cheap land States to become waste repositories for their brethren. But the court cases have also been clear in stating that if Congress legislates the issue, that will be determinative of the law, and that will address the constitutional question. What has failed is the ability of the U.S. Congress to override the provisions of the commerce clause, which the Court has expressly said they can do if we legislatively act. But as I indicated earlier, we have been unable to accomplish that. Today we have taken, after much deliberation, after much negotiation over a long period of time, a major and, hopefully, determinative step to finalize this entire question in this issue.

The House now having passed similar legislation, as the Senate has just passed, means that we, hopefully, can quickly move to resolve the few differences between the two versions and put this on the President's desk for signature. It has been a long road. It has required great effort and persistence by many, many people. We have shown endless patience in seeking a resolution for one of our States; if not the most pressing concern, if not the most pressing environmental concern.

Mr. President, I will skip the recitation of all of the ins, outs, ups and downs and difficult hurdles we have had to overcome to get to this particular point. Many of my colleagues have worked very, very hard to see that this is finally accomplished. We have had to give and take on both sides.

But today, with the clock ticking in the 103d Congress, we have passed legislation crafted out of the Environment and Public Works Committee with the chairmanship of Senator BAUCUS and with the assistance of the ranking member, Senator CHAFEE and members of that committee, with the assistance of my colleagues on both sides of the aisle, Republicans and Democrats, those from both importing States and exporting States, who have been alerted to the crisis and who have seen the need to be environmentally responsible, and seeing it understood that simply solving a problem in one State was creating a problem in another

State. We have had help from Governors from across the country. And it is the efforts of many, many people that have brought this to this particular point.

The legislation that we have just passed, as I said, strengthens the hands of importing States in many key ways. It provides all States additional authority to restrict waste imports. The original legislation only went to certain targeted States. This now gives all States additional powers. It requires the biggest exporting States to finally take control of their own waste. They will need to reduce exports over the next 8 years. And, if they fail to meet certain milestones, they will face an immediate ban. It leaves protection of existing waste contracts up to State law rather than granting them new Federal protections as was the case in the 1992 Senate-passed bill.

In sum, Mr. President, the amendment would give States and communities the authority to stop new movements of out-of-State waste. It allows continued trash shipments to a limited universe of landfills which received out-of-State trash in 1993 and that meet all Federal and State standards for environmentally sound facilities. I want to repeat that. It only allows continued trash shipments to a very limited universe of landfills and only if they received out-of-State trash in 1993 and only if those landfills meet all Federal-State standards for environmentally sound facilities.

The legislation provides that no landfill becomes a target for out-of-State trash by giving all States the ability to freeze volumes at grandfathered facilities, and it requires the biggest exporting States to finally take control of their own waste. They will need to reduce exports. If they fail to meet their milestones created in the bill, they will face an immediate ban.

We have clearly waited our turn. We have clearly demonstrated great patience on this issue. We have now acted. And I thank my colleagues for their cooperation in doing so. If this amendment can be taken up quickly in conference, I am satisfied that we will be able to have this signed into law quickly.

In February 1992, then candidate Bill Clinton, now President, clearly understood the problem when he stated in a debate in South Dakota in February 1992 and I quote:

Our State—

Meaning Arkansas.

—was targeted by people from back East who wanted to bring a lot of their garbage in * * * one of the things that the United States Congress should pass, and the President should sign, an act which gives every State the right to ban the import of out-of-State waste * * * the States ought to be able to decide.

So we are confident that, if we can quickly resolve the very minor differences between the House and the Senate legislation, the President will sign this bill. If the bill is not enacted this year, we are back to square one.

Let me make a prediction. Without a law this year, the problem moves west and south and more States will know the crisis which Indiana, Ohio, Pennsylvania, and Michigan have known for years.

This is, and has been, the simple appeal of importing States. It is important that we not squander our chance to enact meaningful restrictions. It is important that the House and the Senate move quickly so that this can be finalized in the 103d Congress.

I thank Senator SPECTER from Pennsylvania for being a champion in working with us side-by-side since we began this process. I thank my other colleagues, both Republicans and Democrats. I want to acknowledge the support and the help of the chairman of the Environment and Public Works Committee, who just arrived on the floor, for working diligently with us, for passing legislation out of his committee after some long and difficult negotiations, and for his help in bringing us to this particular point.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. RIEGLE] is recognized.

COLLOQUY DURING SENATE FLOOR CONSIDERATION OF THE FISCAL YEAR 1995 LABOR-HHS CONFERENCE REPORT

Mr. KERRY. Mr. President, I would like to commend you and the members of your subcommittee on both sides of the aisle on the fiscal year 1995 Labor-HHS appropriations conference agreement. You have crafted an excellent bill with the conferees from the other body involving many difficult issues. The bill represents a balanced set of decisions that meets the needs of our constituents while also observing the budget caps associated with deficit reduction objectives.

In particular, Mr. President, I would like to utilize this colloquy to clarify and strengthen the congressional intent behind the resources provided for diabetes research and specifically diabetes-related eye research.

Am I correct that your subcommittee received many requests for increased emphasis and increased resources on these two areas of diabetes research from Senators, experts in the medical community, and constituents suffering from diabetes?

Mr. HARKIN. The Senator is correct.

Mr. KERRY. Is it also true this support from both the Senate and the other body was largely responsible for the increased resources provided to NIDDK and the National Eye Institute within the fiscal year 1995 conference agreement?

Mr. HARKIN. The Senator is again correct.

Mr. KERRY. And finally, Mr. President, is it also true that in the spirit of health care reform and the desire to see health care costs reduced, that the overriding purpose of providing resources for diabetes research in the fiscal year 1995 Appropriations Act lies in determining the cause and finding ways in which diabetes and complications from diabetes can be reduced and ultimately eliminated as the leading cause of blindness and third leading cause of death among Americans?

Mr. HARKIN. The Senator is correct.

Mr. KERRY. I thank the Chairman for his indulgence in this colloquy. I am personally interested in diabetes research, as are many of my constituents, and I intend to communicate my concerns to NIH in the hope that NIH will concentrate its efforts toward eliminating this source of death, disability, suffering, and expense by more closely focusing upon the critical diabetes research areas, particularly diabetes-related eye research.

Again, I thank the Chairman for his assistance here and the outstanding leadership he has shown in constructing this bill.

CONGRATULATING ELNOR G. HICKMAN

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to congratulate Elnor Hickman on her recent appointment to international president of Professional Secretaries International. Ms. Hickman is the first African-American to hold this very prestigious office in the 52-year history of PSI.

Ms. Hickman started her career as a result of Lyndon Johnson's Manpower Development and Training Act, part of the War on Poverty that President Johnson fought. She completed a MDTA course in 1967 and was placed in a position with the Legal Assistance Foundation of Chicago, where she is still working today.

Elnor Hickman has had a very illustrious career in PSI, holding offices in the organization at every level. In addition she has also been very active in community service in Chicago. She is involved in Career Links, a mentoring program developed by Women Employed and is a regular participant in programs at Robert Morris College.

As she takes her seat as international president, Elnor Hickman will preside at the Second International Secretarial Summit to be held in connection with PSI's international convention in Seattle in July 1995. The theme she has chosen for her year as international president is "Degrees of Excellence," an apt choice considering the excellence to which Ms. Hickman has devoted her life. The honor of serving as international president reflects

her service and professionalism, and I am glad to see a resident of Illinois achieving this position.

HEALTH INSURANCE TAX DEDUCTION FOR THE SELF-EMPLOYED

Mr. MCCAIN. Mr. President, I rise today to raise a major concern for small business throughout this country, the expiration of the 25-percent tax deduction for individuals who are self-employed and their dependents and employees. This deduction, which was first contained in the Tax Reform Act of 1986, expired last year. Since 1989, we have been keeping small business in limbo each year while Congress decides whether to extend this deduction.

Throughout the health reform debate, I have argued that this deduction for self-employed individuals should be expanded to be comparable to the full deduction that other businesses are entitled to. Ironically, not only are we failing to provide equity to these self-employed individuals, but we are allowing their small tax benefit to be eliminated. If we do not pass an extension very soon, self-employed individuals will not be able to deduct their health insurance this year.

One of my constituents has gone as far as alleging that small businesses are being punished for opposing the health reform bills proposed by the administration. Another has claimed that by allowing the tax deduction to expire, those who favor the various universal coverage bills, such as the Clinton and single-payor plans, are encouraging individuals to drop their coverage, thereby increasing the number of uninsured Americans and creating greater political pressure for passage of their plan next year.

I disagree with these allegations. I would never attribute such objectionable motives to any of my colleagues. I believe that we all want to increase the number of Americans who have adequate health insurance coverage, though we differ on how best to achieve this goal. I do agree, however, that the result of allowing the deduction to expire will be to increase the number of uninsured Americans. I also agree that this is extremely unfair and will impose a large burden on individuals we should be helping, those who have taken the initiative and risk associated with small business and self-employment.

What is happening here is another excellent example from the health reform debate of the perfect being the enemy of the good. Many of us have proposed full deductibility of health insurance for the self-employed in our various health reform bills. The vast majority of us at least favor that these individuals not lose their current small tax benefit which helps them to purchase coverage. However, because we cannot have everything that we want, we are not willing to pass a bill that we all can agree on.

Mr. President, we must pass an extension of the health insurance tax deduction for the self-employed this year. The many small businesses that will be harmed if we do not extend it are among the most vital and important participants in our economy. It is outrageous that they are not permitted to deduct the same percentage of their health insurance costs as do large corporations. It is even more outrageous that we are taking away the small amount that we currently allow them to deduct.

If we are serious about expanding health insurance coverage in this country, we cannot allow this tax deduction to lapse.

VOODOO 2: THE REPUBLICAN CONTRACT WITH AMERICA

Mr. DECONCINI. Mr. President, earlier this week 300 Republicans stood on the Capitol steps and signed a contract with America. If Republicans take over Congress, they pledged a return to the Reagan years—with promises of a balanced budget, tax cuts, and defense buildups. The contract comes with a $1 trillion price tag: a price tag that would have to be made up in unprecedented budget savings. Yet the Republicans have no solid ideas on how to pay the bill.

Let me remind my Republican colleagues that a contract, by definition, is a solemn agreement, enforceable by law. By contrast, what the Republicans have offered is pie in the sky, a chicken in every pot, election year smoke and mirrors. As my good friend from Arkansas, Senator BUMPERS, stated, what America witnessed on the Capitol steps this week was a "snake-oil convention"—300 individuals concerned not with the next generation, but with the next election.

Even members of their own party see the Republican agenda for what it is: political hogwash. FRED GRANDY, Republican from Iowa, labels the Republican proposals, and I quote, "the crassest kind of politics." "How many times does the elixir salesman show up with the hair tonic," GRANDY said, "before people figure out this stuff doesn't work?"

The last time we heard Republicans say they could balance the budget while cutting taxes was in 1981. "This administration is committed to a balanced budget," President Reagan pledged in 1981, "and we will fight to the last blow to achieve it by 1984." This is what President Reagan said. What President Reagan did was double the national debt. It took this Nation over two centuries—205 years to be exact—to pile up a debt of $1 trillion. It took us only 5 years—5 Reagan years—to pile up our second trillion dollars of debt. This Reagan feat was a direct consequence of unprecedented tax cuts plus historic defense buildups and no sound policy to pay for them.

And so the American taxpayer paid, Mr. President—and paid and paid and paid. Under President Reagan, the average taxpayer in America had to work one-and-a-half weeks just to pay for the interest of the national debt. Under Reagan, we had interest rates of 13 and 14 percent. Under Reagan, we had 6 of the 10 largest deficits ever run up in this Nation. Under Reagan, we had a recession from which we are only now beginning to recover. Mr. President, this was not morning in America.

Our Republican colleagues, shrewdly taking note of election year tax cut fever, have also promised tax breaks for the middle class. This is what they promise, Mr. President, but what they will deliver is more tax breaks for the rich. Enact their capital gains tax cut, and 70 percent of its benefits will go to families making over $100,000. Take the cap off IRA's, and who will benefit? Not middle-class America, Mr. President. At least 95 percent of the proposed new tax benefit will go to the top fifth of all taxpayers and one-third will go to the richest 3 percent. The rest of America will have to shoulder the $8 billion increase this tax benefit will add to the deficit.

Does this sound familiar, Mr. President? Four Presidential elections ago, candidate Reagan campaigned as a friend of the middle class. But the facts show that over one-third of the Reagan tax cuts went to the Rolls Royce crowd—the richest 5 percent of the taxpayers. His tax changes decreased by $73,000 per year the taxes paid by the richest 1 percent of Americans, while they eliminated benefits for the poorest and increased the tax burden on the middle class. To paraphrase Yogi Berra, the Republican agenda is "deja vu all over again." Mr. President, this is not morning in America.

And how are our Republican colleagues planning to pay for their tax breaks for the rich? House Republicans give virtually no clue on how they will find the savings. Count on a strong economy, they say. It is an unsettling echo of Ronald Reagan's rosy scenario, his pain-free, trickle-down recovery—and we all know how that turned out: Recordbreaking deficits and an America that was suddenly the biggest debtor on Earth

Senate Republicans are a bit more concrete. They say they will find the savings by cutting $238 billion from non-Social Security entitlement programs over 5 years. This translates into 238 billion dollars' worth of cuts solely in Medicare and Medicaid. This is a warning in red. Without health care reform, cuts of this size could have a devastating impact. Millions more Americans would be added to the rolls of the uninsured. Premium costs for Medicare beneficiaries would soar.

Count on hospitals being forced to close their doors. Mr. President, this is not morning in America.

What House and Senate Republicans both pledge is that they will not touch Social Security. Well, let me remind my colleagues that throughout his 1980 campaign President Reagan also pledged his support for Social Security. But less than 4 months after taking the oath of office, President Reagan tried to eliminate the Social Security minimum benefit. He called for a delay in the annual cost-of-living raise. He called for a reduction in benefits for those retiring at age 62. Fortunately, Congress rebuffed Reagan's assaults on Social Security. But if Republicans take over Congress, who is to say they will not go after Social Security again?

Mr. President, 2 days ago my colleague from Arkansas, Senator BUMPERS, took to the Senate floor and made a masterful speech about the need today for moral fortitude. As elected officials, we have a moral obligation to cast our votes for what is in the best interest of the people of this country—and not for what can ensure us 6 more years in office or what can bring down the opposition party. The American people have grown sick and tired of political posturing. Sadly, they see too many of their elected officials as motivated not by the public interest, but by private gain. We must acknowledge this attitude—take responsibility for it—if there is ever to be any hope for change.

Last year 50 courageous lawmakers in this body voted to break gridlock and change the Nation's course. The vote was on President Clinton's comprehensive budget bill—and the Senate chamber was heavy with predictions of national doom and gloom. My colleague from Texas, Senator GRAMM, perhaps best summed up the doomsday message:

> I want to predict here tonight that if we adopt this bill the American economy is going to get weaker and not stronger, the deficit four years from today will be higher than it is today and not lower. . . . When all is said and done, people will pay more taxes, the economy will create fewer jobs, government will spend more money, and the American people will be worse off.

Contrary to Senator GRAMM's gloomy forecast, virtually every one of our indicators points to an economic revival. The deficit is coming down after going up almost unstopped for 12 years; interest rates and inflation are at historic lows; unemployment is down; and single-family housing starts are at their highest level in 15 years.

I know how much Arizonans have benefitted from President Clinton's economic plan. My State has added 6,900 manufacturing jobs in the last 17 months. Our unemployment rate has dropped from 7 percent to 6.3 percent. Annual growth in personal income has tripled that of the previous 4 years; and new business incorporations are up 23 percent. I know that Arizona is not alone in experiencing an economic revival.

I want to emphasize that 50 lawmakers took a risk in voting for a proposal that would put this country back on track. They voted for the proposal in the face of unfounded and false charges that it would cost jobs; flatten the economy; and raise taxes on all Americans. But Democratic lawmakers were willing to take a personal risk for the sake of a larger cause. I could also cite examples of my friends across the aisle making equally courageous choices. Not that many years ago, the minority leader worked tirelessly to pass a bipartisan budget that made unpopular choices for the good of this country.

The unfortunate fact is that courageous choices—choices which call for sacrifice and pain—often exact personal consequences. Many of my colleagues who voted for the Clinton budget are in tough reelection campaigns because of that vote. But there are worse consequences—consequences that are paid by the people of this country when politicians take the easy road and make the promises people want to hear.

"I don't believe irresponsible promises are good politics," Adlai Stevenson once said. "Promise-peddling and double talk may be expedient and catch some votes from the unwary and innocent, but promises also have a way of coming home to roost." Promises can indeed backfire on those who make them. But they can also backfire on those to whom the promises are made—the American people. We saw such consequences during the Reagan era. Mr. President, I pray we do not witness them once again through a contract which promises to revise those Reagan years.

Let me say loud and clear: The Republican promises are not honest. They are pie-in-the-sky election-year posturing. And like the Reagan-era excesses, they will bring this Nation to its knees.

I have great faith in the American people. I predict that they will not be fooled again by snake-oil promises which have dangerous consequences.

POSITION ON VOTE

Mr. ROBB. Mr. President, while my vote would not have changed the outcome, I rise to say that had I been present for yesterday's vote on the Legislative Reorganization Act, I would have voted "aye." I have long supported biennial budgeting, limiting post-cloture debate, and other measures contained in that bill. In testimony I submitted to the Rules Committee during their consideration of this legislation last February, I outlined key reforms that I favor to increase the efficiency and accountability of the Senate. The Joint Committee accomplished a difficult tasks in developing reasonable changes to improve the working of this body, and I am particularly gratified that some of my recommendations were included. In this context, I request that this statement be inserted in the RECORD at this time.

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

REMARKS OF SENATOR CHARLES S. ROBB ON THE CONGRESSIONAL REORGANIZATION ACT OF 1994

I want to thank the members of the recently adjourned Joint Committee for making such a concentrated effort at what is largely a thankless task. I believe that if Congress is to be improved through these proceedings, the Legislative Reorganization Act will have to be strengthened and expanded to contain more of the good ideas explored by that body. This is one of those frustrating situations where the provisions in the bill do not measure up to the exciting ideas contained in the committee report. However, I understand the difficulties the Joint Committee encountered in reaching consensus, and hope the Rules Committee is able to break some of the logjams.

I would like to point out that public disapproval and distruct of the institution is based primarily on Congress' failure to carry out its most important responsibility—managing the public purse. In my mind, popular disapproval of Congress relates back closely to the budgetary deficits that we approve each year and the debt that we have accumulated for our grandchildren.

Democracy is intrinsically susecptable to fiscal mismanagement. It is the nature of a legislature to spend, and it is the nature of voters to reward those who provide them with a piece of the treasury. In The Republic, Book VIII, Plato decried this tendency over 2000 years ago. We have checks on this pattern of behavior, many implemented in the past 10 years, but it is crucial to the health of our democratic experiment that these checks be periodically reinforced and reformed. I believe this is central to the effectiveness of this reform bill.

The move to biennial budgeting and authorization would constitute an effective retrenchment in the battery of checks against spending. Long term planning is noticeably absent in the present mad rush to approve the 13 annual appropriation bills, and far too much time is spent debating the same controversial provisions each year. With appropriations being the focus only one year of a two year cycle, there will be more time set aside for authorization and regulatory oversight. I have supported a move to biennial budget in the past, and welcome this renewed attempt to make the process more ordered.

In addition, I continue to advocate the creation of a new "budgetary leadership committee" to replace the current Budget Committee. While no such provision is currently included in the bill, consolidation of budgetary responsibility within a leadership committee, composed of the majority and minority leaders along with the chairmen and ranking members of the Finance and Appropriations Committees, would bring a more realistic alignment of spending versus receipts to the process. In a two year budgeting system, this committee would meet, perhaps, only in the first (odd numbered) year of a Congress, and would set parameters for the authorizing committees in their work.

Much more could be done to streamline the legislative process in areas beyond those budgetary. I would like to see germaneness more strictly defined as it applies in Rules XVI, XXII, and XXVII to avoid the tortured interpretation currently employed. In addition, I support changes in the rules to extend the germaneness requirement to amendments to emergency appropriations and major, omnibus legislation. I grant that the definition of what legislation is "major" and which is not would be difficult to spell out. It would be worth the effort, however, to end the current situation where major legislation is passed onto the President covered with a host of "Christmas tree ornaments" of non-germane amendments that, more times than not, benefit only a narrow constituency.

There are other areas I would like to see addressed in this package of reforms. We are all aware that unnecessarily burdensome federal regulations fuel the public perception of Congress as out of touch with the people we serve. While I believe the time set aside for authorization and regulatory oversight in a two year authorizing process would have a salutary effect, there is a step that we can take right now to clear up our greatest regulatory sin—Congressional exemptions. For a small business owner plowing through the federal forms and mandates handed down from this body, the true insult comes with the discovery that the body which initiated such regulations also is exempt from them. This is contrary to the express intentions of the framers and an unhealthy trend.

There is no provision in the current draft to address this issue, and there should be. The House version of this bill, specifically Chapter 3, Subtitle C, is stronger in this regard, and has elicited the support of nearly 250 members. On the Senate side, I support the efforts of Senator Lieberman in his work on the Congressional Accountability Act. I understand he is working to introduce a stronger version of this bill with Senator Grassley, and I would like to see it considered as a part of the entire package of reforms.

This bill is in response to public criticism of the way Congress does business. Some of this criticism is based on misconceptions, and some is spread by people who serve their own interest by bashing Congress. Most of the criticism, however, is based on a very real perception that Congress has systemic problems in managing the national budget and in regulating its own internal affairs. While Congress rarely enjoys high ratings, I believe that some lasting good can come of the current down-turn in public confidence in this institution. We should capitalize on the political momentum behind this bill, and implement well-reasoned and far-reaching reforms.

CRYPTOSPORIDIUM AND THE SAFE DRINKING WATER ACT

Mr. FEINGOLD. Mr. President, this week NBC's news program "Dateline" ran a three part series on incident of cryptosporidium in the Nation's water supply. Wednesday night's broadcast addressed what citizens can do to protect themselves from their own drinking water given that congressional action is still pending. The Safe Drinking Water Act amendments have passed the other body and the measure is now scheduled to go to conference. Mr. President, it is the hope of this Senator that though the clock is running down on this session, the conferees move with diligence and expedience in addressing their task. Having the press telling our citizens to boil their water, while we wait to take up the measure next year is simply not responsive to the concerns of those who are increasingly afraid to use the most essential, life sustaining resource.

These broadcasts made one fact perfectly clear: Milwaukee's problem is the country's problem, but Milwaukee's solution is not the country's practice. As described Tuesday night by Paul Nannis, Milwaukee's health commissioner, the city now notifies at risk populations of detections of cryptosporidium in municipal water, contacting hospitals, AIDS care facilities, institutions that service the metropolitan areas' elderly, informing all those with fragile immune systems so they can protect themselves. The city is engaged in a multitier approach to investigating whether cryptosporidium is present in the drinking water: testing occurs at the facility for the parasite, particulates and turbidity of the water are used as indicators, and the city has established a network to monitor disease outbreaks that suggest individuals have been exposed to cryptosporidium.

As the shows have also described, Mr. President, it is not only those with fragile immune systems that experience health problems when exposed to cryptosporidium. Over 400,000 people of all states of health became ill in Milwaukee and 104 people died following the city's cryptosporidium outbreak in April 1993, more than 1 year ago. I have observed firsthand the lingering health problems Milwaukee citizens continue to face. The shocking part of these broadcasts, Mr. President, is that Milwaukee is not alone in experiencing drinking water health problems. Outbreaks in several large cities were highlighted. News show time limits prohibited a listing of all the cases of concern. Between 1986 and 1992, the Center for Disease Control reported a total of 102 drinking water disease outbreaks linked directly or indirectly to microscopic parasites, viruses, and bacterium, striking 34,155 people in 35 States.

In conclusion, Mr. President, this body has acted, our colleagues in the other body have acted, and it is time to complete our commitment to ensure that the Nation's drinking water is safe. Let us make certain that Dateline's news epilog ends with congressional action, rather than how-to hints.

IN CELEBRATION OF THE REPUBLIC OF CHINA'S NATIONAL DAY

Mr. CRAIG. Mr. President, last May I had an opportunity to visit the Republic of China on Taiwan. It was a wonderful experience forging new friendships and strengthening the many ties between the Republic of China and my home State, Idaho. I was very much impressed by the public officials with whom I met.

During my meeting with President Lee Teng-Hui, I learned of his genuine interest in seeing his country play a larger international role, which is a goal befitting Taiwan's economic power and place within the international community. President Lee urged all nations, especially the United States, to give their support to Taiwan's campaign to return to the United Nations. It is my hope that this goal will someday be realized.

I also had a very interesting conversation with Dr. Fredrick Chien, the Republic of China's Foreign Minister. A Yale-educated Ph.D. and diplomat, Minister Chien's vast abilities offer a great deal to both the people of the Republic of China and the world. His grasp of international events, his wit, and his intellect are impressive. I enjoyed our discussion on the relationship between the Republic of China and the United States, and share Minister Chien's desire to see a further strengthening of ties between Taipei and Washington.

After extensive internal review, there has been recent progress toward upgrading the relations between the United States and Taiwan, which was good news from the Clinton administration. The administration has agreed to help Taiwan enter certain international organizations, especially those that deal primarily with trade and commerce. The Clinton administration has also agreed to allow the ROC to change the name of its offices in the United States from the Coordination Council for North American Affairs, to the Taipei Economic and Cultural Representative Office. These modest improvements in relations between our two countries are certainly a step in the right direction. It is hoped that we will see this pattern of improvement continued.

On the eve of the Republic of China's 83d National Day, I believe we should continue to give our support to the Republic of China's bid to be a member of the GATT and the United Nations. In addition, I hope that remaining issues or obstacles can be resolved so that President Lee Teng-Hui and Vice President Li Yuan-Zu can be allowed to visit the United States. It is my understanding that a number of my colleagues have extended invitations to President Lee and other leaders from Taipei, to visit Capitol Hill. I know for a fact that President Lee has much insight to share with us, especially on east Asian affairs.

Before concluding, Mr. President, on September 20, 1994, I attended a congressional farewell reception for Ambassador and Mrs. Mou-Shih Ding in

the Mansfield Room. I was glad to see many of my Senate colleagues in attendance. They clearly had a great deal of affection for the Dings and the Republic of China. Ambassador Ding's successor, Ambassador Benjamin Lu, is a multilingual diplomat with Washington experience. Lu was stationed here in Washington in the 1980's as the director of the economic division of the then-titled Coordination Council for North American Affairs. I welcome Ambassador and Mrs. Lu to Capitol Hill and look forward to their tenure in Washington, DC.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million dollars would you say are in a trillion dollars? And when you answer that, just remember that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business Thursday, September 29, the Federal debt stood—down to the penny—at $4,669,822,761,500.75 meaning that every man, woman, and child in America owes $17,911.87 computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion?—there are a million million dollars in a trillion dollars. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

THE CWC REPORT

Mr. DECONCINI. Mr. President, the Senate Select Committee on Intelligence has just issued a report on U.S. Capability to Monitor Compliance with the Chemical Weapons Convention, an analysis of the monitoring and counterintelligence implications of this arms control agreement that has been submitted to the Senate for its advice and consent to ratification. The committee will send each member a printed copy of this report, and we would be happy to provide a typescript copy to anybody who would like to see the report before the Senate adjourns.

This report fulfills a traditional function of the Intelligence Committee with regard to arms control agreements, to give both the Senate Foreign Relations Committee and the Senate as a whole our independent assessment of such issues as how well or poorly the United States will be able to monitor other countries' compliance with the convention, and whether the executive branch is prepared to protect classified information during foreign inspections of U.S. facilities. Because the CWC will also involve inspections of private facilities in the United States, our report also covers issues relating to the protection of confidential business information.

The committee's unclassified report includes 14 recommendations, some of which relate to language in the resolution of ratification. The report, which the committee approved by a vote of 16 in favor and none opposed, also contains three additional views, by Senators JOHN GLENN, JOHN F. KERRY and MALCOLM WALLOP.

There is a longer, highly classified version of this report, which is held in the committee's offices. We invite all interested Members of the Senate to read this more detailed report at their convenience.

Mr. President, I ask unanimous consent that the committee's findings and recommendations, which are summarized in the final section of our report, be included in the RECORD.

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

REPORT OF THE SELECT COMMITTEE ON INTELLIGENCE, U.S. SENATE: SELECT COMMITTEE ON INTELLIGENCE, U.S. SENATE: U.S. CAPABILITY TO MONITOR COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION

SUMMARY: FINDINGS AND RECOMMENDATIONS

This summary largely repeats the findings and recommendations contained in the body of the Committee's report. The reader is encouraged to consult the full text to understand the context of those findings and recommendations and the reasons for them.

IMPLICATIONS OF THE CWC TEXT

The Committee pursued several issues of treaty interpretation in its hearing and in questions for the record, and the answers provided by the Executive branch were generally reassuring. The lack of a definition of "law enforcement purposes" could lead, however, to compliance disputes.

If the CWC is ratified, a new Executive order will be needed to minimize the risk of American use of riot control agents in ways that would raise compliance questions.

It is likely that some States Parties to the CWC will assert that the Convention requires substantial changes in the functioning of the Australia Group. The Committee trusts that the United States and other Australia Group members will prepare to counter such arguments both publicly and in international fora.

Recommendation #1.—The Senate should make its consent to ratification of the CWC conditioned upon a binding obligation upon the President that the United States be present at all Amendment Conferences and cast its vote, either positive or negative, on all proposed amendments made at such conferences, thus ensuring the opportunity for the Senate to consider any amendment approved by the Amendment Conference.

MONITORING AND VERIFICATION

A single, all-encompassing judgment cannot be made regarding the verifiability of the CWC or U.S. capability to monitor compliance with the Convention. In some areas our confidence will be significantly higher than others. Like the Executive branch, however, the Committee largely accepts the Intelligence Community's pessimistic assessment of U.S. capability to detect and identify a sophisticated and determined violation of the Convention, especially on a small scale. The Committee also notes the Intelligence Community's assessment that the CWC would give the U.S. Government access to useful information, relevant to potential CW threats to the United States, that would not otherwise be obtainable.

It is likely that some countries that ratify the CWC will seek to retain an offensive chemical weapons capability. While it is unlikely that they would do so by diverting declared CW stocks, the covert stockpiling of undeclared agent or munitions could well occur. Monitoring such illicit behavior will be the single most challenging task for the CWC verification regime and U.S. monitoring.

OPCW investigators, if not blocked from gaining needed access to sites and affected persons, should be able to determine whether chemical weapons have been used in a particular case.

Recommendation #2.—The Executive branch should work to foster OPCW procedures that would permit on-site inspectors to identify and record the presence of nonscheduled chemicals, while taking extraordinary steps, if necessary, to protect any confidential information thereby acquired.

If the international inspectorate is determined, well trained, and well equipped, and if U.S. or other States Parties provide accurate and timely leads to the OPCW, there may well be some occasions in which on-site inspection will produce evidence of CWC violations. It will be vital, however, that the OPCW not lose sight of that objective.

In addition, U.S. and international monitoring will, at times, be sufficient to raise well-founded questions. In order to maintain the effectiveness of the Convention and to deter potential violators, the United States and the OPCW must pursue such questions vigorously, even to the point of seeking international sanctions if a State Party does not adhere to the principle set forth in paragraph 11 of Article IX of the CWC, that "the inspected State Party shall have the right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention." U.S. verification policy and investment in monitoring technologies should start from the principle that monitoring can contribute to effective international action even if it cannot conclusively demonstrate a country's violation of the Convention.

Recommendation #3.—The Executive branch should adhere to an arms control verification policy that does not require agencies to prove a country's noncompliance before issues are raised (either bilaterally or in such international fora as the OPCW or the United Nations) and appropriate unilateral actions are taken.

The deterrent effect of the CWC is extremely difficult to predict. A strong U.S. commitment to the enforcement of the CWC will be essential to the effectiveness of the Convention. It may in fact be possible to achieve a measure of both enforcement and deterrence, but only if the United States is prepared to make compliance with the CWC a major element of its foreign policy stance toward each State Party to the Convention.

IMPROVING U.S. MONITORING AND VERIFICATION

Recommendation #4.—The Committee endorses the call by the interagency committee under the Deputy Secretary of Defense for increased funding of CW sensor technology and urges the Executive branch to redirect FY 1995 funds for this purpose as well. The Committee also recommends that Congress rescind its restriction on DOE efforts to develop CW (and BW) sensors based upon technologies it is developing in the nuclear field.

Funds invested in CW sensor technology may well be wasted, however, unless the Executive branch institutes effective oversight

of the multitude of agency programs in this field. The recent formation of a Nonproliferation and Arms Control Technology Working Group may provide an appropriate forum in which to deconflict and narrow the focus of agency programs and to fund the most promising avenues to ensure expeditious completion. The Executive branch should ensure that the body that makes such decisions is fully briefed on all relevant intelligence and defense programs. Even highly sensitive programs should not be immune from high-level interagency consideration to determine whether they warrant increased or lessened support.

COOPERATION WITH THE OPCW

The lack of U.S. access to raw data from on-site inspections will impede the Intelligence Community's monitoring of CWC compliance.

Progress is being made in The Hague on enabling the OPCW to take advantage of the information resources of States Parties; the Executive branch should give this matter high priority.

Recommendation #5.—Rather than waiting until the CWC enters into force, the Executive branch should begin preparing now to meet the likely need for U.S. support to OPCW inspections, including information that would be needed for challenge inspections of declared and undeclared sites pursuant to Part X of the CWC Verification Annex.

The Committee cannot assure the Senate that the Preparatory Commission's other recommendations will improve CWC verification significantly, but it is encouraged by the reported general direction of those talks.

THE QUESTION OF RUSSIAN COMPLIANCE

The Committee views with great concern Russia's failure to comply fully with the data declaration provisions of the Wyoming MOU and its implementing procedures. In the absence of full compliance with the Wyoming MOU, neither the Committee nor the Senate can overlook the distinct possibility that Russia intends to violate the CWC.

The failure to implement all the on-site inspections originally agreed to in the Wyoming MOU is another cause for serious concern. The inspections under Phase II of the MOU are no longer likely to make a significant contribution to compliance monitoring or verification. Rather, as pared down in 1993 and in the final implementing procedures, they will continue the confidence-building process and help the two sides prepare for later inspections under the BDA and/or the CWC. Given Russia's refusal to permit a full suite of technical inspection equipment, even after most inspections and all challenge inspections of non-declared sites were eliminated, the Senate must assume that Russia may have something to hide.

Recommendation #6.—The President should make full Russian implementation of the Wyoming MOU and the BDA an issue of high priority in U.S.-Russian relations and raise the matter personally at the highest levels. The Committee recommends that the Senate add a condition to the resolution of ratification of the CWC requiring the President, 10 days after the CWC enters into force or 10 days after the Russian Federation deposits instruments of ratification of the CWC, whichever is later, either—

(a) to certify to the Senate that Russia has complied fully with the data declaration requirements of the Wyoming MOU; or

(b) to submit to the Senate a report on apparent discrepancies in Russia's Wyoming MOU data and the results of any bilateral discussions regarding those discrepancies.

The Committee further recommends that the Senate add a declaration to the resolution of ratification of the CWC expressing the sense of the Senate that if Russian data discrepancies remain unresolved 180 days after the United States receives information on Russia's initial CWC data declarations from the OPCW Technical Secretariat, the United States should request the Executive Council of the OPCW to assist in clarifying those discrepancies pursuant to Article IX of the Convention.

Given the passage of one-and-a-half years since Russia and the United States reached ad referendum agreement on BDA implementation, and given the fact that the BDA mandates extensive on-site inspection by U.S. personnel, the Committee believes there is a real risk that the BDA will never enter into force, notwithstanding Russia's economic incentive to accept bilateral verification. In the absence of agreement on BDA implementation, the Committee advises the Senate that verification of Russian compliance would likely be based upon a smaller number of inspections than originally anticipated, that the inspections of Russian sites would be conducted by the OPCW inspectorate rather than by U.S. personnel, and that there would be no guaranteed U.S. access to the detailed inspection data. On the other hand, the OPCW is unlikely to exempt Russia from the requirements set forth in the CWC's provisions.

Recommendation #7.—The Senate should add a condition to the resolution of ratification of the CWC, barring the deposit of instruments of ratification until the President certifies to Congress either: (a) that U.S.-Russian agreement on BDA implementation has been or will shortly be achieved, and that the agreed verification procedures will meet or exceed those mandated by the CWC; or (b) that the OPCW will be prepared, when the CWC enters into force, to effectively monitor U.S. and Russian facilities, as well as those of the other States Parties. Relevant committees may also wish to consider whether it would be effective to attach conditions to one or more elements of U.S. economic assistance to Russia.

Recommendation #8.—The Executive branch and the committees of Congress with responsibility for U.S. contributions to the OPCW budget should pay close attention to the OPCW's changing needs, so that additional funds can be made available in a timely fashion if current planning assumptions prove too conservative.

Recommendation #9.—The Executive branch should ensure that the effectiveness of the CWC, both in Russia and around the world, is the primary objective of U.S.-Russian CW policy.

PROTECTING CLASSIFIED AND PROPRIETARY INFORMATION

Although some loss of sensitive information will likely occur as a result of CWC data declarations and on-site inspections, the Executive branch is taking all reasonable steps to protect classified information that may be at risk. The Committee welcomes the recent increase in efforts to help U.S. industry, but believes that still more can be done to protect confidential business information held by private firms.

Some loss of classified or proprietary information in challenge inspections is likely, at least through perimeter monitoring. It will be especially important, therefore, for the OPCW to have effective regulations and procedures guarding against disclosure of such information by OPCW personnel.

Recommendation #10.—The United States should exercise its right to reject a proposed inspector or inspection assistant when the facts indicate that this person is likely to seek information to which the inspection team is not entitled or to mishandle information that the team obtains.

Recommendation #11.—Congress should amend the CWC implementing legislation (S. 2221) to give the DoD On-Site Inspection Agency (OSIA) authority to escort inspectors on non-DoD sites, when asked to do so by the owners or managers of those sites, on a non-reimbursable basis to the extent that funds are available.

Recommendation #12.—The Department of Commerce, with assistance from the Department of Defense, should develop a database similar to the Defense Treaty Inspection Readiness Program (DTIRP) database, to which interested firms could voluntarily contribute information on security needs at their facilities in the event of a CWC inspection.

Given industry's important role in data declarations, the first of which must be submitted by the United States only 30 days after the CWC enters into force, the risk that industry unpreparedness will lead to inaccurate U.S. declarations is a cause for concern.

Recommendation #13.—The Commerce Department should undertake a substantially-increased outreach program to inform companies that do not yet understand their data declaration obligations, in particular. Because U.S. ratification of the CWC may well precede enactment of implementation legislation, the Commerce Department should begin this effort now, rather than waiting for formal designation as the lead agency for this effort.

Recommendation #14.—The Senate Committee on Foreign Relations should pay particular attention to whether section 302 of S. 2221 provides for sufficient disclosure of information to Congress and, if necessary, to the public.

THE PRESIDENT'S COMMITTEE ON THE ARTS AND THE HUMANITIES

Mr. PELL. Mr. President, on September 20, 1994, President Clinton announced his appointments to the President's Committee on the Arts and the Humanities and named Dr. John Brademas to chair the Committee. The President also announced that First Lady Hillary Rodham Clinton will serve as Honorary Chair.

THE IMPORTANCE OF THE ARTS AND THE HUMANITIES

In making these appointments, President Clinton said,

The Federal, state and local governments together provide only a small percentage of the support essential to our cultural life. These appointments underscore the vital partnership between the government and the private citizens who do so much to enrich and preserve the arts and humanities in our country. I am pleased that John Brademas, who has been a vigorous champion of learning and culture both in Congress and as a university president, has agreed to chair the Committee. At a time when our society faces new and profound challenges, when we are losing so many of our children, and when so many people feel insecure in the face of change, the arts and the humanities are fundamental to our lives as individuals and as a nation.

The President's Committee, created by Executive order in 1982, is charged

with advancing public understanding of the arts and the humanities and establishing new partnerships between the private sector and Federal agencies to address critical issues in cultural life.

JOHN BRADEMAS APPOINTED CHAIRMAN

Mr. President, I am pleased that President Clinton has appointed as Chairman of the Committee, our distinguished former colleague and former Majority Whip of the House of Representatives, John Brademas.

John Brademas, now president emeritus of New York University, was Representative in Congress of Indiana's Third Congressional District. While Dr. Brademas was serving in the House of Representatives, he and I coauthored the Arts and Artifacts Indemnity Act and the Museum Services Act, which created the Institute of Museum Services.

Dr. Brademas was an original cosponsor of the National Arts and Humanities Act of 1965, the legislation that created the National Endowment for the Arts and the National Endowment for the Humanities, and for ten years chaired the House subcommittee with jurisdiction over the Endowments.

He also, in 1990, cochaired, with Leonard Garment, the Independent Commission, mandated by Congress to study the grantmaking procedures of the National Endowment for the Arts.

In ceremonies at the White House on September 21, President Clinton and the First Lady charged the members of the President's Committee on the Arts and the Humanities to expand private philanthropic assistance for the humanities and the arts, develop new private sector resources to aid cultural organizations, support cultural programs that reach at-risk youth and encourage international cultural exchanges.

THREE VICE CHAIRS

President Clinton also named three vice chairs for the Committee:

Peggy Cooper Cafritz of Washington, D.C.: Ms. Cafritz is a long-time advocate of the arts in Washington, a past chair of the D.C. Commission on the Arts and Humanities, and she currently heads the Ellington Fund, the fundraising arm of the Duke Ellington School of the Arts in Washington, D.C. Cynthia Perrin Schneider of Sandy Spring, Maryland: Ms. Schneider is Associate Professor of Fine Arts at Georgetown University and author of Rembrandt's Landscapes: Prints and Designs and numerous other studies in art history. Terry Semel of Los Angeles, California: Mr. Semel is Chairman and Co-Chief Executive Officer of Warner Brothers.

Ellen McCulloch-Lovell, a former director of the Vermont Arts Council, was named Executive Director of the President's Committee by President Clinton in February. Before her appointment to the Committee, she previously served as Chief of Staff for the distinguished senior Senator from Vermont, The Honorable Patrick Leahy, for ten years.

Mr. President, at this point in the RECORD, I insert the remarks by President Clinton, the First Lady and Dr. Brademas at the White House ceremonies of September 21 as well as Chairman Brademas' opening statement at the first formal meeting of the Committee on that same day.

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

MRS. CLINTON'S REMARKS

Mrs. Clinton: Thank you. Thank you very much. Thank you and please be seated.

It is a great pleasure for the President and me to welcome all of you to the White House. We are very pleased and proud of this committee and are grateful to all who agreed to serve, and are particularly grateful to Dr. Brademas for taking on the job of being the chair; the distinguished vice-chairs; and everyone who has been willing to take time for this commitment.

We believe this is an important day for those of us who care deeply about American culture. It's important because this committee has so much potential not only to do good in ways that will affect the lives of Americans, but also to focus particularly on providing hopeful and productive outlets for our children.

We want to support and nurture our artists and humanists and the traditions that they represent. And we want also to bring those traditions alive for literally millions and millions of children who too often grow up without opportunities for creative expression; without opportunities for intellectual stimulation; without exposure to the diverse cultural traditions that contribute to our identity as Americans.

Too often today, instead of children discovering the joyful rewards of painting, or music, or sculpting, or writing, or testing a new idea, they express themselves through acts of frustration, helplessness, hopelessness and even violence.

We see too clearly how an erosion and breakdown of our most cherished institutions have resulted in a fraying of the whole social fabric. We see it most tragically in children killing children.

We know that the arts have the potential for obliterating the limits that are too often imposed on our lives. We know that they can take anyone, but particularly a child, and transport that child beyond the bounds the circumstance has prescribed.

We hope that among the many contributions this committee makes, it will be thinking and offering ideas about how we can provide children with safe havens to develop and explore their own creative and intellectual potential.

The arts and humanities have the potential for being such safe havens. In communities where programs already exist, they are providing soul-saving and life-enhancing opportunities for young people. And I am delighted that as one of its major endeavors, this committee will be considering ways of expanding those opportunities to all of our children.

Doing what we can here in the White House and throughout this administration to promote and nurture the arts and humanities is one of the great pleasures that has been ours in the last 20 months. The President believes so strongly in the role that the arts and humanities have played in individual lives and in our collective life as a nation. As a child, he found so much joy and challenge in music and in the other art forms. And together, we have tried in our own lives and with our own daughter to provide that kind of exposure and opportunity.

So it is with great pleasure and particular joy, in front of this group on this day, for me to introduce the President of the United States. (Applause.)

PRESIDENT CLINTON'S REMARKS

The President. Thank you very much, the First Lady and my old friend John Brademas, and to all of you who have agreed to serve, and your friends and supporters who are here.

[Here the President speaks of the situation in Haiti.]

* * * * *

Now, let me thank you all again, all of you who've agreed to serve on the President's Committee on the Arts and the Humanities, to underscore the vital partnership that must exist between your government and the private citizens who do the work of the arts and humanities in our nation. I want to thank the First Lady for agreeing to be the honorary chair, although this is a job she wanted, unlike some of those I've asked her to take on. (Laughter.) You couldn't have a much more appreciative or informed friend.

JOHN BRADEMAS TO SERVE AS CHAIRMAN

I am also very, very pleased that John Brademas has agreed to serve as the chairman. I have known him for many years since his distinguished career in the United States Congress and through his brilliant presidency of New York University. I think he is one of our nation's most outstanding citizens and will certainly be one of the most eloquent advocates imaginable for the cause you are here to further. (Applause.)

He also happens to have been an original cosponsor of the bill that created the National Endowment for the Arts and the Humanities, and he wrote the bill that established the Institute of Museum Services. He also promised to give me free congressional lobbying advice on the side in return for his appointment. (Laughter.)

THE PRESIDENT'S COMMITTEE FOR THE ARTS AND THE HUMANITIES

I have charged the President's Committee with advancing public understanding of the arts and humanities, which is so important to our democracy, and to establish new partnerships between the federal agencies and the private sector.

As a sign of our commitment to the arts and humanities today, we have here with us members of the Cabinet and the administration, including Secretary Riley, Sheldon Hackney, Jane Alexander, Joe Duffey, and a number of other government officials.

AN EXTRAORDINARY GROUP OF AMERICANS

I appointed, as all of you can see, an extraordinary group of Americans to this committee—artists, scholars, writers, thinkers, leaders in the corporate world and the philanthropic community, committed citizens, activists recognized in their communities—people who represent outstanding achievement and a commitment to the cultural life of our nation—a commitment to keep it alive and to make it more accessible.

A REPORT ON THE STATE OF CULTURE

By this time next year, I want you to deliver to me a report on the progress we're making in furthering America's cultural life. For 200 years the arts and humanities have

helped to bridge American differences, learned to appreciate differences that helped Americans to learn to appreciate differences, one from another, and to build strong and vibrant institutions across our country. You must help us explore ways to do this better.

The most disturbing thing to me about American life today is not the problems we have, although we have problems a-plenty, it is the lack of unity among Americans and the lack of optimism we feel in dealing with those problems.

REASONS FOR OPTIMISM

Just a couple of weeks ago, a distinguished international panel of economists said that the United States was the most productive country in the world. They said that for the first time in almost a decade because of the remarkable resurgence of our economy, because of the number of jobs we're creating, because we accounted for almost all the job growth and three-quarters of the economic growth in the seven great industrial nations of the world in the last year and a half, and because we are taking on a lot of our biggest challenges—bringing our government deficit down three years in a row for the first time since Mr. Truman was president—the only country of all the advanced economies to do that. And yet, so many Americans still feel that we're kind of adrift and falling apart from one another.

AMERICA'S LEADERSHIP ROLE IN WORLD AFFAIRS

Maybe even more important, as you look toward the 21st century, isn't it interesting that in the last year and a half the South Africans wanted us to spend $35 million and send our best people to South Africa to work on making that election a success? The Irish and the English have been fighting for eight centuries now. They wanted the United States to be involved in the process of reconciliation that is now taking hold in Northern Ireland. After decades of brutal struggle, the Israelis and the Arabs working together to make peace in the Middle East want the Americans to be centrally involved.

Even in the moment of our greatest tension a few days ago in Haiti, one of the military leaders said, well, if the President is determined to do this, and the world community is absolutely determined to go ahead, we want the Americans here. Why is that? We have Haitian Americans, Jewish Americans, Arab Americans, Irish Americans, English Americans. You think of it—this diversity we have which cuts across racial and religious and philosophical and regional and income lines—it is the source of our great strength today in a world that is ever more interdependent.

And people look at us and say, you know, with all their problems—yes, their crime rate's too high; and, yes, they're too violent; yes, too many of their kids drop out of school; and yes, there's too much income inequality, especially for working people—but you know, they get along pretty well. And people from all different kinds of backgrounds wind up pursuing their chosen path in life and living up to their God-given potential. And they're adaptable—they work their way through the changes that time and circumstance are imposing on them. That's what others think about us.

THE ROLE OF THE ARTS AND THE HUMANITIES

We somehow have to begin to think that about ourselves again. And I cannot help but believe that the arts and humanities must play a central role in that task. How we imagine our own lives and our own future and how we imagine ourselves as a country will have as big an impact on what it is we ultimately become as anything in the world.

I said the other day, I will just say again, a lot of you have been involved in various enterprises, great business enterprises, great arts enterprises, great entertainment enterprises. Just imagine how you would function if everyday in all the important years of your life you showed up for work and two-thirds of the people you were working with thought that your outfit was going in the wrong direction and nothing good could happen. (Laughter.) Imagine what would happen if the National Gallery of Art were given the most priceless collection of impressionist paintings uncovered after having been thought destroyed for 50 years, and two-thirds of the people said, I don't believe they're Impressionist paintings. (Laughter.) I know Monet—he was a friend of mine. That's not him. (Laughter.) Don't bother me with the facts. (Laughter.) You're laughing because you know that it's true, don't you? (Laughter.) There is a grain of truth in this. Somehow we have to not sweep our problems under the rug and not sweep our differences under the rug, for that is also what makes America great.

APPRECIATING WHERE WE ARE

But we only find energy for dealing with our problems and the heart and the hearing to deal with our differences when at least we have a realistic appreciation of where we are, what we're doing and where we're going. And I feel so good about the work we've done to move America forward in the last 20 months, but we'd all have to admit we've still got a lot of work to do in bringing America together, in giving our people a realistic feeling about where we are in the world and where we're going. You can do that. You can make a huge difference. The arts and humanities have always helped to do that work.

AN AGENDA FOR THE PRESIDENT'S COMMITTEE

So I urge you to continue in this work. I urge you to make your progress report to me. I urge you to remember what we are trying to do in our schools in helping to improve our children's education with the arts and humanities. I urge you to work to expand private philanthropy. We all know that the government in this country provides a crucial measure, but only a tiny measure of the support that the arts and humanities need.

I urge you to promote international cultural exchange and understanding, not only because we need desperately to know more about others throughout the world, but because I believe that we'll learn a lot more about ourselves if we just come in contact with people from other walks of life and other paths of the world.

Thanks to phones, faxes, internet, E-mail, CNN, we can see the power of our cultural traditions as they are exported around the world. And sometimes they come back to us. We had the only—we're the first White house to communicate with huge numbers of people from all over by E-mail. And I'm trying to do a sociological analysis now of whether there's a difference between the E-mail communication and the mail communication—or the female communication. (Laughter.)

I am very hopeful that you will make a remarkable contribution to this country. I went over this list of people with great care. I tried to get a very different group of people. I tried to imagine all the different things that I hope that this committee could deal with and all the different challenges I hope you could assume. If I haven't done a good job, it's not your fault, it's mine in picking you, but I think you're pretty special.

MAKING THE ARTS AND THE HUMANITIES ACCESSIBLE

Let me say in closing that I hope that in addition to the schools, you can think about how we can increase access to the arts and humanities all across America for people who might otherwise be isolated from them—people who are homebound, people who live in very isolated ares, people who now don't even know how to speak the language that would be necessary to ask for something that might change their lives forever. I ask you also to think of that.

We've faced a lot of challenges as a country, but I'm actually pretty optimistic about it based on the objective evidence. What remains is whether we can develop a vision that will sustain us as a people as we move through a period of change without a known big enemy into an uncertain future. It requires courage, but courage comes from having something inside that you can connect with what you see outside.

You can help us as we work our way through this in this remarkable time in our country's history. I hope you enjoy it. I thank you for serving. And I thank you for being here today. Thank you. (Applause.)

REMARKS OF DR. JOHN BRADEMAS

Mr. President, Mrs. Clinton, at the outset, let me put you both at ease. I am a child of the United States House of Representatives and not the Senate and, therefore, I shall be very brief (laughter).

Mr. President, you do great honor to all of us whom you have asked to serve as members of the President's Committee on the Arts and the Humanities, and I am grateful to you for having done me the honor of asking me to chair the Committee.

AN EXTRAORDINARY GROUP OF CITIZENS

You have chosen an extraordinary group of private citizens to serve on the Committee even as the public members are outstanding leaders of government, most of whom are friends and former colleagues of mine.

I am also glad that the able executive director of the President's Committee is someone who for several years led the Vermont State Arts Council and was for ten years chief of staff to the distinguished senior Senator from Vermont, Senator Patrick Leahy—Ellen McCulloch-Lovell.

Mr. President, that with all the other issues, foreign and domestic, on your mind, you should have taken time to meet with us today to charge us with the mission of encouraging greater support, private and public, of the arts and the humanities in American life, is a powerful demonstration of the commitment you and the First Lady bring to our purpose.

And, Mr. President, that you have asked the First Lady to serve as Honorary Chair of the President's Committee reinforces that commitment.

REPORT ON THE STATE OF CULTURE

You have asked us, Mr. President, to give you a report on the state of the culture in our country, to consider the implications for the arts and the humanities of the information infrastructure, to encourage greater access for the American people to the arts and the humanities and to look at international cultural exchanges.

So, Mr. President, you have given us a tall order. I am confident, however, that with this superb group of Americans and the support of the President of the United States and the First Lady, we will respond constructively and effectively to your challenge.

Thank you again, Mr. President, for the honor that you do us.

OPENING STATEMENT OF DR. JOHN BRADEMAS, CHAIRMAN, PRESIDENT'S COMMITTEE ON THE ARTS AND THE HUMANITIES

I want to extend a warm welcome to all of you whom President Clinton has selected to serve on the President's Committee on the Arts and the Humanities.

You are an outstanding group of men and women about to embark on an exciting day and an important mission.

I am greatly honored that the President asked me to chair this committee, and that he has named to it such an extraordinary group of people.

With your help and active participation, I'm confident that the President's Committee on the Arts and the Humanities will fulfill its promise.

Of course, we are all delighted that the First Lady, Hillary Rodham Clinton, has graciously agreed to serve as Honorary Chair of the Committee.

The prestige of our Committee and the backing of the White House can, I feel sure, influence private philanthropy in our country and encourage greater support for the cultural life of the nation.

A VITAL PARTNERSHIP

As President Clinton said in naming all of you to the Committee, "The Federal, state and local governments together provide only a small percentage of the support essential to our cultural life. These appointments underscore the vital partnership between the government and the private citizens who do so much to enrich and preserve the arts and humanities in our country.

At a time when our society faces new and profound challenges, when we are losing so many of our children, and when so many people feel insecure in the face of change, the arts and the humanities are fundamental to our lives as individuals and as a nation."

Our Committee can create partnerships with other Federal departments and agencies, as we are already doing with the Department of Commerce, to promote cultural tourism, and with the Departments of Justice, Health and Human Services and Housing and Urban Development—the last three in order that arts and humanities organizations will have access to the new prevention programs in the Crime Bill the President has just signed into law.

Please remember that with so many senior members of the government on our Committee, we also function as an interagency task force on the arts and the humanities. Indeed, I'm very pleased that so many of the government members of our Committee are with us today and I'm delighted that Secretary of the Interior Babbitt has asked Roger Kennedy, Director of the Park Service, to serve; that Secretary of the Treasury Bentsen has asked his Assistant Secretary for Tax Policy, Leslie Samuels, to join us; and that Secretary of State Christopher has designated my former colleague in the House, the Undersecretary of State for Global Affairs, Tim Wirth, to be a member of the Committee.

Let me say that we are here to assist—and not to duplicae—the mission of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

MISSION OF THE PRESIDENT'S COMMITTEE

Now the mission of the President's Committee is to advance public understanding of the arts and the humanities, and to establish new partnerships between the private sector and Federal agencies to address critical issues facing cultural life in the United States.

The arts and the humanities and their power to inform and uplift our lives and help the country's diverse population understand and communicate with one another should be at the center of everyday life, not at the margins.

In the next two—I believe, six—years, our Committee has an opportunity to take on some compelling issues and exciting projects, ones that can contribute both to enriching the nation's cultural life and society at large.

THE COMMITTEE'S AGENDA

Working with the White House, we have developed an ambitious agenda for the Committee. We can succeed with this agenda only if all of you are committed and active.

I think it important here to note that whatever projects we decide to undertake will need to be privately funded. So as you go through this exciting day, please think about what you can do to advance our work.

Today we'll be talking about how the Committee can help reverse the downward trends in private funding for the arts and the humanities.

This Administration will do everything it can to support cultural life, through the personal advocacy of the President and the First Lady, through events at the White House, through support from other departments of the government and by maintaining adequate requests in the Federal budget.

I think it safe to say, however, that with continuing efforts to reduce the deficit, and in light of the controversies in Congress, our arts and humanities agencies are not likely to win a big increase in their budgets.

In my judgment, we should be able to build the groundwork for increasing those budgets.

VALUING ARTISTS AND SCHOLARS

All of us know that artists and scholars are not valued enough, nurtured enough. All of us know that many cultural institutions, whether large and established or small and community-based, are in economic crisis and that that condition affects the access of people to their offerings. Indeed, the economic situation of the arts and the humanities is in many respects so fragile that the loss of even a modest government grant or support from a private donor can mean a crisis. So we must take seriously our mission to stimulate private sector giving.

Private contributions have been especially difficult, outside higher education, to attract to the humanities. We are exploring with the NEH and the Federation of State Humanities Councils a challenge grant to help state humanities councils increase their fundraising for annual operating support.

PUTTING THE ARTS BACK IN THE CLASSROOM

You will also hear today about the efforts of the government to improve educational standards and to put the arts back into the classroom. The National Endowment for the Arts and the Department of Education have forged a partnership to demonstrate how the arts fit into the National Education Goals approved in the Goals 2000 legislation Congress passed this year, and to get national standards—voluntary standards—in the arts adopted by every state. We endorse this effort as a necessary foundation for all other efforts to reach children.

President Clinton will also ask our Committee to pay particular attention to what happens to young people when they are not in school: to use the power of the arts and, through the humanities, of ideas, to offer young people creative alternatives to destructive urges . . . To give them "safe havens"; places to go where there are caring adults and where they can experience the joy, discipline and positive self-expression that training in the arts and the humanities offers.

You will hear as well about government partnerships, some of which the President's Committee has already initiated.

For example, the Committee staff was asked by the Department of Commerce to write one of the eight new policy papers about the National Information Infrastructure—better known as the Information Superhighway. Our staff worked together with the NEA, NEH and IMS to produce a report, "Arts, Humanities, Culture on the NII," which was released by Secretary Ron Brown on September 7. And there are many significant projects that can come out of that policy review.

I personally hope that our committee will also give attention to how we can encourage more international exchange among artists and humanists. What we may call "cultural diplomacy" often precedes economic exchange and improves the political climate in foreign affairs. I believe that if we imaginatively address cultural diplomacy, we can help this Administration and our country in other parts of the world.

The Department of Commerce has also encouraged a partnership for cultural tourism, to publicize cultural events in the United States in markets abroad. The Department is encouraging cultural organizations to take part in the 50 state conferences on tourism that will lead up to the November 1995 White House Conference on Tourism. And our Committee is urging the organizers of the conference to include a session on cultural tourism.

Much of what we do, of course, and what we seek to encourage, can be advanced by an effective media plan.

ENHANCING PUBLIC AWARENESS

There are several ways we can work with radio, television and publications to enhance public awareness of the arts and the humanities. For example, we've already been working with National Public Radio to develop a national book club on the air. We'll discuss more ideas later at our meeting where I hope to draw on the considerable expertise of this Committee.

During the course of the day, our Executive Director, Ellen McCulloch-Lovell, will report to you about some other activities that she and the staff began by way of developing an agenda for the next couple of years.

Before we plunge into the agenda, let me say a word about the Committee. The President has named a Chairman and three Vice-Chairmen—Peggy Cooper-Cafritz, Cynthia Perrin Schneider and Terry Semel—who comprise a small executive committee. The authority for our Committee comes, of course, from the President—and our agenda is shaped by his and the First Lady's mandates, which you will hear this afternoon.

ELLEN MCCULLOCH-LOVELL TO SERVE AS EXECUTIVE DIRECTOR

Now I should like to introduce the Executive Director of our Committee. She has, in my view a superb background for her important responsibility—nine years as Director of the Vermont State Arts Council and then ten years as Chief of Staff to the distinguished Senior Senator from Vermont, Patrick Leahy.

I have myself, in the relatively short time we have been working together, been impressed by her energy, her intelligence, her judgment and her dedication to the purpose that brings us together today.

Now all of you bring tremendous experience to the Committee, and there is always

room for new ideas. By the end of today, I hope to be able to create working groups to deal with the items on our agenda as well as working group to develop any ideas that emerge from this meeting.

I will ask each working group to articulate the objectives of the project it recommends; identify those government, corporate or nonprofit partners with which we will work to carry out the project; and indicate how it will be financed.

We will move ahead on those projects to which the White House has agreed. When new ideas are developed, I will review them for approval with our Honorary Chair, Hillary Clinton.

We should have a great day together. More important, I believe that working together, we can accomplish something of significance for the President of the United States and for the people of our country, for what we do in the arts and the humanities tells who we are as a people. Our educational and cultural institutions are indispensable to the quality of our lives, the strength of our communities and the vitality of our democracy. For the arts and the humanities to thrive now and into the next century, we must have the support of both the government and the private sector.

PRIVATE MEMBERS OF THE PRESIDENT'S COMMITTEE

Mr. President, here follows a list of the private citizens appointed by President Clinton to the President's Committee on the Arts and the Humanities:

Susan Barnes-Gelt of Denver, Colorado. Ms. Barnes-Gelt is Deputy Director of the International Center at the University of Colorado at Denver and a member of the Colorado Council on the Arts.

Lerone Bennett, Jr. of Chicago, Illinois. Ms. Bennett is the Executive Editor of Ebony magazine and the author of several popular works of African-American history and culture.

Madeleine Harris Berman of Franklin, Michigan. Ms. Berman currently serves as Vice Chairman of the American Council on the Arts and its Chairman of the National Clearing House and Archive for Arts Policy Research.

Curt Bradbury of Little Rock, Arkansas. Mr. Bradbury is the President and Chief Executive Officer of the Worthen Banking Corporation and serves as the Chairman of the Arkansas State Board of Higher Education.

John H. Bryan of Chicago, Illinois. Mr. Bryan is Chairman of the Board and Chief Executive Officer of Sara Lee Corporation. He is a past Chairman of the Business Committee for the Arts and serves on the Trustees Council of the National Gallery of Art and the board of directors for the Art Institute of Chicago.

Hilario Candela of Coral Gables Florida. Mr. Candela is President of Spillis, Candela and Partners, the largest minority-owned architectural, engineering and interior design firm in the United States.

Anne Cox Chambers of Atlanta, Georgia. Ms. Chambers was formerly U.S. ambassador to Belgium and is Chairman of Atlanta Newspapers, Inc., which owns and operates the Atlanta Journal-Constitution.

Margaret Corbett Daley of Chicago, Illinois. Mrs Daley is the First Lady of the city of Chicago and the Chair of the Chicago Cultural Center Foundation. She created and serves as Chair of Gallery 37, a summer program which offers employment in the arts to Chicago-area youth.

Everett Fly of San Antonio, Texas. Mr. Fly is President of E.L. Fly and Associates, a landscape design firm. He currently serves on the board of the Texas Committee for the humanities and has directed a national project to document the evaluation of historic African-American settlements in the United States.

David P. Gardner of Menlo Park, California. Mr. Gardner is the President of the William and Flora Hewlett Foundation. He was formerly the President of the nine-campus University of California system and President of the University of Utah.

Harvey Golub of Saddle River, New Jersey. Mr. Golub is Chairman and Chief Executive Officer of the American Express. Company and serves on the board of Carnegie Hall.

Richard S. Gurin of Easton, Pennsylvania. Mr. Gurin is President and Chief Executive Officer of Binney & Smith, the manufacturers of Crayola products. Mr. Gurin has served on national advisory panels in arts education, including the National Committee for Standards in the Arts and the Coalition for Goals 2000.

Irene Y. Hirano of Los Angeles, California. Ms. Hirano is Executive Director and President of the Japanses American National Museum which opened in April 1992.

David Henry Hwang of Marina del Ray, California. Mr. Hwang, a playwright and screenwriter, is the author of M. Butterfly and other acclaimed works for the stage and screen.

William Ivey of Nashville, Tennessee. Mr. Ivey is the Director of the Country Music Foundation and an author and scholar who specializes in folk music. He serves on the executive board of the American Folklore Society.

Quincy Jones of Los Angeles, California. Mr. Jones is a musician, composer, film and record producer, and record company executive and multi-media entrepreneur. In the course of his career he has won 27 Grammy Awards and the prestigious Polar Music Prize of the Royal Swedish Academy of Music.

Robert Menschel of New York City, New York. Mr. Menschel is a Limited Partner with the Goldman Sachs Group, a New York investment firm. He serves on numerous boards including those of the Museum of Modern Art, the New York Public Library, and the Institute for Advanced Study in Princeton, NJ.

Rita Moreno of New York City and Los Angeles, California. Ms. Moreno is an actress, singer, and dancer and the only female performer to have won an Emmy, an Oscar, a Tony and a Grammy for her performances on television, film, the Broadway stage, and for musical performances.

Jaroslav Pelikan of New Haven, Connecticut. Mr. Pelikan is Sterling Professor of History at Yale University and the President of the American Academy of Arts and Sciences.

Anthony Podesta of Washington, DC. Mr. Podesta is an attorney and President of Podesta Associates, a national public policy and public affairs firm based in Washington, DC. He was the founding President of People for the American Way.

Phyllis Rosen of New York City, New York. Ms. Rosen is a real estate developer and President of P. Rosen, Inc. She serves on the New Jersey Council on the Arts and has been active in the development of the Park East Day School in New York City.

Ann Sheffer of Westport, Connecticut. Ms. Sheffer is active in the theatre and serves on the Westport Arts Advisory Council, the board of the Westport Art Center, and the Westport Education Foundation.

Issac Stern of New York City, New York. Mr. Stern is an internationally known violinist. He has served as the President of Carnegie Hall for over 30 years and is active with many other cultural organizations.

Dave Warren of Santa Fe, New Mexico. Mr. Warren is a member of the Santa Clara Pueblo (Tewa) and is Vice President of Media Resources Associates, Inc., which is producing a nine part television program on Native American art and culture. He was active in the creation of the Smithsonian Institution's National Museum of the American Indian.

Shirley Wilhite of Shreveport, Louisiana. Ms. Wilhite is a civic leader who has been active in the arts. She serves on the Shreveport Regional Arts Council and is also active in the Aspen-Snowmass Colorado Arts Council.

Harold Williams of Los Angeles, California. Mr. Williams is President and Chief Executive Officer of the J. Paul Getty Trust, which administers funds for education and research in the arts and the humanities. An attorney, Mr. Williams is also the former chairman of the Securities and Exchange Commission.

NEED TO PASS SEC FUNDING LEGISLATION

Mr. RIEGLE. Mr. President, today is September 30, the end of the Federal fiscal year. By this date, all Government agencies are supposed to be provided with the funds they need to operate for the next fiscal year, which starts at midnight tonight. We face a very serious situation, because the Securities and Exchange Commission has not yet been provided with funding sufficient to carry it through the new fiscal year.

At the present time, Mr. President, the Congress has provided the agency with only a portion of the funding that it needs for the next 12 months. Legislation that would provide the needed full funding was passed by the House of Representatives earlier this week. That bill, H.R. 5060, is at the Senate desk, Mr. President. It is crucial that the Senate immediately take up and pass this bill.

If we do not provide the agency with full funding by midnight tonight, the SEC will have to start preparing to shut down. If Congress adjourns without providing the needed funds, the SEC will have to shut down. I understand that as of Monday, October 3, the agency will immediately freeze all hiring. The SEC will issue a stop work order, shutting down the electronic filing system that is used by all publicly traded companies to provide information to the investing public. Within 30 days, the agency will have to start scaling back its operations. The agency will have to notify employees that they will be laid off. Registration statements for new issues of securities will not be reviewed. Investigations of securities fraud will not be completed. Fraud actions against will not be brought.

Why is this important? Because the SEC is crucial to the smooth operation of our capital markets, and our capital markets are crucial to the smooth operation of our economy. The success of

the U.S. financial markets is due, in large part, to the presence and vigilance of the SEC in policing and regulating the markets and their participants. Curtailment of the SEC's efforts could lead to a loss of investor confidence in the market. Corporate America depends on a strong market, buoyed by investor confidence, to maintain businesses' value and access to capital. Also, in recent years, growing numbers of individual investors have placed their life savings and retirement moneys in the nation's securities markets.

If the SEC operates at a diminished level, its ability to police the markets or effectively respond to a market emergency, will be seriously impaired, placing the markets and the personal savings of millions of individual investors at risk. In turn, the Nation's economy as a whole could be severely harmed. We cannot run that risk.

Mr. President, the Senate passed the language contained in H.R. 5060 earlier this year, as part of an appropriations bill. It was not included in the House-Senate appropriations conference report at that time, but is now before the Senate again. This legislation enjoys the strong support of both of the SEC's regulated industries and the administration. It is crucial that the Senate take up and pass this legislation today, to protect the smooth operation of our markets, to ensure that investors are protected, and to guarantee the efficient operation of our Government.

GATT

Mr. DANFORTH. Mr. President, I will vote in favor of the Uruguay round implementing legislation when it comes before the full Senate later this year.

The Uruguay round GATT agreement is a historic achievement. It was negotiated by three Presidents. It is the world's largest tax cut. It will cut worldwide tariffs on U.S. exports by almost 40 percent. The reduction in these trade barriers will create hundreds of thousands of high-paying jobs for American workers.

Equally important, the new agreement expands the rules of the GATT to cover important areas of international trade previously outside the GATT. The agreement establishes international trading rules to protect U.S. intellectual property rights and to govern trade in services—two areas where the United States has a clear competitive advantage. It also phases out quotas on textiles and apparel goods over 10 years. And the agreement for the first time sets limits on agricultural subsidies. European agricultural export subsidies that have injured U.S. farmers will be cut by 21 percent over 6 years.

Furthermore, the Uruguay round establishes a new dispute settlement procedure to ensure that we can enforce our rights as a nation under the GATT. Under current GATT rules, a country that loses a dispute can block the GATT from enforcing the rules against it. The European Union has used this loophole against the United States in numerous cases where we had won cases at the GATT. Under the new World Trade Organization, other countries will no longer be able to block GATT cases against them. This will permit us to enforce the rules of the GATT to open foreign markets to our exports.

Finally, it should be noted that several concerns that I and other Republican Senators had expressed regarding the implementing legislation for the GATT have been successfully resolved during the drafting of that legislation in the Finance Committee.

As my colleagues know, I had serious objections to the new subsidies rules negotiated by the Clinton administration. These rules permit certain green light subsidies to be granted by governments without the possibility of imposing countervailing duties to offset the injurious effects of those subsidies. These green light rules would put the United States on the horns of a dilemma, forcing us to choose between subsidizing our own industries, or allowing them to lose out to subsidized foreign competition. To address this problem, several provisions were added to the implementing bill to define narrowly what constitutes a green-lighted subsidy, to sunset the green light categories at the end of 5 years, and to provide a new trade remedy for U.S. industries injured by foreign green-lighted subsidies.

There was also substantial Republican opposition to the administration's request for a grant of fast track authority linking trade policy to labor and environmental issues. I oppose any linkage between trade and labor and environmental policies because it would subordinate trade policy to these other objectives, and would lead to the closing of the U.S. market rather than the opening of foreign markets to U.S. exports. In the face of these concerns, the administration agreed to drop its request for an extension of fast track authority from the Uruguay round implementing bill. Instead, the Senate will consider separate legislation to renew fast track authority next year. The resolution of this issue earlier this month cleared the way for consideration of the implementing bill this year.

Mr. President, given the clear benefits of the Uruguay round to the United States, I urge all my colleagues to support quick passage of the implementing legislation before we adjourn next week. The sooner we can pass this historic trade agreement, the better off we will be as a country.

CONGRATULATIONS TO THE REPUBLIC OF CHINA ON ITS 83D NATIONAL DAY

Mr. WALLOP. Mr. President, on the occasion of the 83d National Day of the Republic of China, I offer my best wishes and congratulations to President Lee Teng-hui, Vice President Li Yuan-zu and Foreign Minister Fredrick Chien of the Republic of China on Taiwan. Together they have made Taiwan into one of the most democratic and prosperous nations in East Asia.

It is my hope that the Republic of China will be able to become a member of GATT and the United Nations in the near future. The Republic of China is clearly an economic power and deserves full participation in world affairs.

It is also my hope that there will be further strengthening of relations between Washington and Taipei. In the not too distant future, we hope to be able to welcome President Lee Teng-hui and other ROC leaders to Washington, DC. Furthermore, we hope that our Government will soon see the efforts made by the ROC in environmental protection, including wildlife, and pollution control.

I am confident that the future of our relations with Taipei will remain as bright as ever, and I urge my colleagues to work with Taipei's new representative in Washington, Ambassador Benjamin Lu, a diplomat of impeccable credentials.

ON THE 125TH ANNIVERSARY OF THE BIRTH OF MAHATMA GANDHI

Mr. MOYNIHAN. Mr. President, I rise to bring to my colleagues attention a very important anniversary which will be celebrated over the weekend. Sunday, October 2 is the 125th birth anniversary of Mohandas Karamchand Gandhi—the Mahatma.

It is difficult to capture the profound impact that Gandhi had on our world. His is still a household name admired some 125 years after his birth. A name which calls up inspiring images of a single man dressed in hand-spun cloth, leading a nation to independence. The effects of his nonviolent actions were not limited to his country, nor his time. Leaders of today continue to study his life and adopt aspects of his thought.

If I may invade ever so slightly the privacy of the President's luncheon table, in May, 1994, Mr. Clinton had as his guest the distinguished Prime Minister of India, Mr. P.V. Narasimha Rao, who in his youth was a follower of Mahatma Gandhi. In a graceful passage, the P.M. related how it came to pass that Mahatma Gandhi, caught up in the struggle for fair treatment to the Indian community in South Africa, and in consequence in jail, read Thoreau's essay on "Civil Disobedience" which confirmed his view that an honest man

is duty-bound to violate unjust laws. He took this view home with him, and in the end the British raj gave way to an independent Republic of India. Then Martin Luther King, Jr. repatriated the idea and so began the great civil rights movement of this century. A movement even so, still far from fulfillment.

It is no fluke that in 1994, when the heads of two democracies governing over one fifth of the world lunch, that Mahatma Gandhi should be a topic of conversation. Even as we pause on the threshold of a new millennium, we recall how his legacy shaped us and how it will be carried into the future.

U.S. COMMUNICATIONS LAWS

Mr. PRESSLER. Mr. President, I was disappointed by Commerce Committee Chairman HOLLINGS' announcement Friday that S. 1822 would not be considered by the Senate prior to sine die adjournment. I will not say that S. 1822 was a perfect bill. Commerce Committee members worked diligently to fashion a bill that would be acceptable to the Senate. As a member of the farm team, a group of original cosponsors of the bill who represent small city and rural areas, I want to commend Chairman HOLLINGS, ranking minority member DANFORTH, and their staffs for their willingness to consider provisions to ensure that all Americans have the opportunity to benefit from advanced communication services, whether they live in New York City or Humboldt, SD.

We need to revise our Nation's communications laws. The current statute is 60 years old, and does not address the realities of today. The Modified Final Judgment [MFJ] entered into by AT&T and the Federal court in 1982 is still in force. The Bell Operating Companies created by the MFJ to this day must seek relief from the judge charged with overseeing the 1982 agreement. These companies are proscribed from entering into the long distance service market and from manufacturing telecommunications equipment. These companies have been pursuing opportunities to expand their services through the U.S. court system. This is precisely why Congress must act. It is poor public policy for the U.S. judicial system to bear the burden of administering and adjudicating a significant segment of the Nation's telecommunication industry. Providing appropriate laws for this important industry sector is a legislative branch responsibility. I know many of my colleagues believe as I do that it is important for us to address this issue early in the next Congress.

Failure to act on legislation to set appropriate guidelines for such an important industry would hurt us internationally as well as domestically. The U.S. telecommunications services and equipment industries are the most competitive in the world. Our telecommunications companies are in the international market and are doing well, frequently against great odds that are stacked against them in many countries.

United States telecommunications executives in Europe privately have complained to me that the majority of the European Union [EU] member countries resist opening their markets. The Europeans will quickly point to United States restrictions on foreign ownership of radio licenses to make a weak argument that the United States market is not open. This is a red herring. The U.S. telecommunications equipment market is wide open. Ericsson, Philips, British Telecom, Siemens, and other European firms know this well and provide jobs to thousands of Americans in their plants in the United States.

The United States has used quiet diplomacy to encourage the European Union countries to open their markets. The goal adopted by the EU was liberalization of all telecommunications markets by 1998. Earlier this year, I had an article printed in The Wall Street Journal outlining why the United States could not wait until 1998 for liberalization. I ask unanimous consent that this article appear at this point in the RECORD. Shortly after this article appeared, the European Parliament adopted a resolution to delay liberalization past the 1998 target. That is unacceptable.

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

[From the Wall Street Journal Europe, July 7, 1994]

U.S. CALLERS PAY FOR EUROPE'S MONOPOLIES

(By Larry Pressler)

U.S. communications companies are working hard to do business in Europe. Their task is not easy. Despite Europe's professed commitment to open its telecom markets, government-owned phone monopolies are still preventing U.S. firms from competing on their turf.

The failure of Europeans to open their markets affects not only U.S. communications equipment and service suppliers. It also affects everyone in America who uses a telephone, since U.S. long distance carriers and their ratepayers must subsidize European telephone companies. European nations received approximately $554 million from U.S. carriers in 1993. Approximately $411 million were subsidies imposed on U.S. carriers for the right to have customers' calls connected in Europe.

These subsidies are a direct charge to U.S. consumers: It is estimated that the average U.S. international caller pays $100 each year due to the above-cost accounting subsidies to foreign telephone companies.

Here's how it works. International carriers negotiate a rate for calls placed between two countries. This negotiated rate does not reflect the real economic cost of connecting the call, nor does it reflect the rates charged in the calling country. For example, Germany's Deutsche Bundespost Telekom, a government-owned monopoly, could insist in its negotiations with any of the 183 U.S. carriers offering service from the U.S. that it will cost $1.18 per minute for calls between the U.S. and Germany. This figure may be far above the real cost.

Deutsche Telekom has been able to price international calls above the actual cost because there has been no other carrier in Germany. The German collection rate for an international call exceeds the actual economic cost of the call by as much as 75%. In 1993, U.S. carriers paid Deutsche Telekom almost $196 million as settlement for calls placed from Germany to the United States. Approximately $146 million of this figure represents a pure subsidy. Calling rates between European countries are generally lower, though European consumers also pay for the lack of competition in telecommunications by higher rates than are found within, say, the U.S.

The result is an irrational and anti-market system of international communications whereby American international long distance carriers and consumers are subsidizing phone rates in Europe. The cost of sending a letter between points in Europe and the United States is the same. But a telephone call from Frankfurt, Germany, to Sioux Falls, South Dakota, will cost significantly more if placed from Germany than from the United States. This defies logic.

The EU is scheduled to implement internal liberalization of the telecoms market by January 1998. To be sure, some progress is being made. European companies are exploiting loopholes in EU law and lobbying politicians to open their markets to competition. The electric utility holding company Viag AG, for instance, will be offering telephone service to big German companies in late next year, presenting for the first time an alternative to Deutsche Telekom. The EU Commission has supported this in principle, but the bureaucratic hegemons of state telecom monopolies, flanked by the unions, are not anxious to comply. Moreover, this spirit of liberalization has not translated to open markets for foreign competitors.

By opening their basic telephone services market to competition, the cost of calling would be reduced, encouraging more Europeans to make phone calls to the United States. Without market liberalization, the U.S. carriers—and U.S. ratepayers—will continue to pay higher settlement costs to European companies each year.

The U.S. Congress should consider requiring the adoption of a telecommunications trade-in-service agreement as a condition for the implementation of the new GATT agreement. No proposal is on the negotiating table currently and U.S. negotiators report that, despite the rhetoric, real progress on getting Europe to open its markets is slow.

If the EU is unwilling to negotiate, the United States must seek bilateral agreements with nations, such as the U.K., that have made a real effort to liberalize their markets. If the U.S. is to approve the proposed purchase of 20% of U.S.-owned Sprint by European telephone monopolies Deutsche Telekom and France Telecom, then it is only fair that U.S. companies be able to provide basic telephone services in Germany and France.

The U.S. market may be criticized for not being completely open in all sectors, but it is still the most open market in the world. If Europeans want to compete in our backyard, they should be ready for the U.S. to compete in theirs. We cannot wait until 1998.

Mr. PRESSLER. The U.S. international telecommunications carriers

pay settlement rates to European nations of approximately $554 million each year. Of this figure, $411 million is a pure subsidy. Worldwide, our carriers are paying $4 billion a year in settlement rates, of which an estimated $2.3 billion is a subsidy. This is not a small amount of money; it is a major outpayment of U.S. hard currency that is equivalent to approximately 30 percent of our total foreign assistance budget.

International accounting rate settlements and foreign market liberalization must be given greater attention by Congress and the administration. I have no quarrel with the acquisition of stakes in U.S. carriers by foreign telecommunication companies. Indeed, such acquisitions may result in the accelerated liberalization of markets in France and Germany.

AT&T Chairman Robert Allen addressed Comm Week's International Network Economy Conference in Washington Monday on this point. He forcefully addressed the U.S. international carriers' need for relief from paying excessive subsidies for the completion of telephone calls to foreign nations. I agree with Mr. Allen that the Federal Communications Commission [FCC] must give priority to the development of a comparable market access standard for foreign companies. I have written to FCC Chairman Reed Hundt about this matter, and I will have the opportunity to speak with him about it this week.

Mr. President, I ask permission for AT&T Chairman Robert Allen's timely and frank speech to be printed in the RECORD at this point.

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

KEYNOTE SPEECH OF ROBERT E. ALLEN, COMM WEEK INTERNATIONAL NETWORKED ECONOMY CONFERENCE

Thank you Denis, and good morning everyone.

It goes without saying that it's a privilege to keynote the first session of this conference. And it's an honor to follow Anne Bingaman.

It's also a little ironic that the last time I was invited to speak at a Comm Week conference in Washington, AT&T was in the throes of acquiring NCR. Now we've just completed the acquisition of McCaw Cellular.

It's beginning to look like a major acquisition is a prerequisite for getting invited; and if that's the case, we can't afford to have me come back again too soon.

When I was here in 1991, the term "Information Superhighway" wasn't quite in mass circulation.

Today some people object to that term on aesthetic grounds. They're just plain tired of hearing it.

But I have to confess, I like it.

There's a good reason why the highway metaphor has become so widely used. It's a form of short-hand for the collective expectations people all over the world have for what information technology can deliver.

Expectations differ from country to country, from business to business and household to household. But around the world, there's a well-justified sense of excitement about the benefits of emerging information technology. And more than a little concern about how those benefits should be delivered.

Part of the appeal of the superhighway is the image it gives of high speed, high volume traffic with easy access.

A highway system like that expedites trade in goods between people in distant places. A Global Information Superhighway should do the same thing for trade in information and services.

To build an information superhighway, we need a strong foundation in the form of a global communications market that offers the same kind of access and mobility associated with a modern highway.

We need a market where customers consistently have access to competitive choices.

We need a market that can provide multinational companies with truly seamless, worldwide services.

And we need a market where communications companies are free to cross national borders to give customers the services they want.

Clearly, we don't have a market like that yet; not in most parts of the world. The main reason we don't have it is the lingering fear of competition, especially when it comes to providing basic network services in countries outside the United States.

But anyone who went through the competitive revolution in the United States over the last ten years understands the benefits of competition to customers. And what's good for customers is good for industries and countries.

Conversely, any industry or country that ignores what's good for customers is ignoring its own long-term interests.

Earlier this month a group of visiting telecommunications officials from developing counties in Africa met with FCC Chairman Reed Hundt, who'll be speaking to us at lunch. He told them it was an illusion to think that any nation can't afford to have competition in its telecom market.

Specifically, the chairman said, quote: "Countries and consumers can't afford NOT to have competition. Competition helps lower prices, increase efficiency, improve and expand service. It encourages the entry of the most modern technologies and increases a country's competitiveness in the world market."

We've all heard that the winds of competition are blowing in communications markets around the world. And that's true. The need for competition is recognized just about everywhere, first and foremost by customers. But after years of discussion, those winds of competition aren't much more than a light breeze.

In the industrialized countries of Western Europe, the European Union has consistently called for liberalized market access and competition. That's a sincere effort. But even the most optimistic view of the EU's plans doesn't include concrete market results for voice infrastructure competition until 1998, at the very earliest.

But one thing IS certain; the same trade barriers that are impeding competition in the market for communications services are also impeding construction of the Global Information Superhighway.

Consider the five principles of Global Information Infrastructure issued by Vice President Gore at the World Telecommunications Development Conference last March in Buenos Aires.

Number one, encourage private investment.

Number two, promote competition.

Number three, create a flexible regulatory frame work that can keep pace with rapid technological and market changes.

Number four, provide open access to the network for all information providers.

And number five, ensure universal service.

I think those five principles make excellent construction guidelines for the Global Information Superhighway. And they remind us that technology alone won't get us where we want to go.

The most efficient rule for traveling on the Information Superhighway is a high-octane blend of technology and competition, with a light touch of public policy.

The ideal mix differs from country to country. But too many countries have trouble applying the competition element of this formula—especially when it come to basis network services in their own markets.

On the other hand, the interest in technology has set off a boom in infrastructure investment worldwide.

You can pick up the Wall Street Journal or the Financial Times almost any day and see headlines about high tech alliances and budding multimedia services. But keep in mind that two-thirds of the world's households don't even have telephones.

One half the world's population, about three billion people, are still waiting to make their first phone call. Never mind accessing a multimedia data base.

So it's no wonder that visions of the Global Information Superhighway look different in different parts of the world.

But there's universal recognition of the link between information technology and economic growth. Many countries are playing catch-up, and playing it well, especially in East Asia, Latin America, Eastern Europe and the former Soviet Union.

In fact, the UN just reported a record of $80 billion in private foreign investment in developing countries last year. And the majority of that investment went to countries with ambitious infrastructure programs. Twenty-six billion went to China alone.

The growth of China's infrastructure is even more breathtaking than the double-digit growth of its economy.

China is expanding its national network at the rate of 12 million lines a year. Six years from now it plans to be expanding at almost that rate—20 million lines a year. In terms of capacity that's the equivalent of creating a new Bell Atlantic or Nynex every year.

China seems intent on realizing its potential of being an economic superpower in the 21st Century. And its leaders recognize that they need a world class information infrastructure to make that happen.

AT&T has memorandum of understanding with China that covers a long-term partnership to provide services, equipment and technology throughout the system. And I can assure you that the Chinese not only have a voracious appetite for more capacity, they also have gourmet tastes in technology.

The Chinese government is determined that their information infrastructure will be in the fast lane of the Global Information Superhighway, and they are by no means alone in that desire.

I was in Saudi Arabia this summer for the launching of the biggest single network expansion project ever outside the United States. The Saudis are doubling their national network, from 1.5 million to 3 million lines, all digital.

The Kingdom of Saudi Arabia is looking for economic diversification. And they, too, want an infrastructure that can take full advantage of anything coming down the global information superhighway.

We've seen the same kind of determination at work in South Korea, Mexico, Argentina and many other countries.

But the newest chapter in the world infrastructure story is being written right here in the United States.

Until just the last few years, the market for transmission and switching systems in the U.S. was huge, but barely growing. That's changed dramatically.

The regional Bell companies, GTE and some of their competitors in the cable television business, are investing in the technology to deliver multimedia consumer services—the kind of services people in this country associate with the idea of an Information Superhighway. We're working as a technology supplier to both industries.

The advanced state of technology is due in no small measure to the advanced state of competition in the U.S. market. For a variety of reasons, the fuel of choice on our National Information Superhighway is blended in about equal parts of technology and competition. And so far, public policy has walked the fine line of supporting the expansion of information technology while leaving the actual work to competitors in the marketplace.

There's still some work to do in getting the FCC and some state regulators out of the business of regulating prices in long distance. And we still have some work to do in introducing competition into the local exchange market.

That's the newest frontier in America's continuing competitive revolution. And the action is centered right here in Washington.

Congress has been debating the first major communications legislation in this country in 60 years.

Unfortunately, events compelled withdrawal of the Hollings bill in the Senate on Friday. So apparently there won't be telecommunications reform this year.

We've supported the Hollings bill because it provides a logical approach to the expansion of competition.

It anticipated the local exchange companies' eventual freedom to enter the already competitive long distance market. But not until the introduction of real competition, in the local exchange market, where the local exchange companies still have a monopoly.

That arrangement strikes me as fair. And hopefully, these principles will be part of any legislation proposed in congress next year.

Meanwhile, the size and relative openness of the U.S. market have attracted competition from all over the industrialized world. Unfortunately the open door policy of the U.S. market has not generated comparable progress in other countries. They want the freedom to compete for customers in the United States, but they haven't taken significant steps to dismantle their monopoly control at home.

I don't mean any disrespect to my fellow panelists or to their companies. And I certainly don't want to suggest that anyone in America should be telling another country how to run its telecommunications system.

France Telecom and the Deutsche Bundespost have created some of the best technical infrastructure in the world. They've been serving their own populations for most of this century without any policy advice from the United States, thank you very much.

But the problems created by closed markets transcend the borders of any one nation.

The proposal of France Telecom and Deutsche Bundespost Telekom to enter the U.S. network services market through their investment in Sprint goes well beyond the internal policies of any of the countries involved. It underscores the question of whether America can afford to open the door to competitors from countries which offer very little in the way of comparable market access.

If I may be permitted to answer my own question: The time for this lop-sided arrangement is long past.

Not just because it strikes many people as unfair, but more important, it deprives U.S. customers of competitive choices in the global market, and it poses the risk of reducing the competition that's already the strength of the U.S. market.

Meanwhile, business and residential customers are looking for the best possible combination of price and service here and abroad. They want the option of buying exactly the services they want from the carrier of their choice. And they want that carrier to meet their needs inside and across the borders of other countries.

Even putting aside the new information services that will be coming down the superhighway, competitive access is crucial for delivering the full benefits of the voice and data services that make up most of the global market right now.

The big multinational customers whose buying power drives that market are growing impatient. They've been teased long enough with the promise of competitive choices for seamless global connections through the world's public switched networks.

That's impossible right now. Not because technology is lacking, but because competition is lacking. And competition will remain lacking as long as carriers from other countries are allowed to compete in the U.S. at the same time they sharply restrict access to their home markets.

This just doesn't make sense for customers. They are being denied the economic benefits of facilities-based competition among carriers outside the United States.

Permitting any country to operate this kind of a closed market while its own affiliate competes on an equal footing in the United States is not in the best interests of full and fair competition.

And the France Telecom/Deutsche Bundespost Telekom/Sprint deal as proposed now would not fit any reasonable definition of full and fair competition.

Not as long as France and Germany maintain their tight grip on competition in switched voice services and infrastructure.

It's encouraging that France and Germany have recently made significant strides in bringing international settlement rates down closer to cost—a practice we'd like to see more countries emulate.

American international callers pay out $4 billion a year more than the U.S. takes in from all foreign governments. An estimated $2.3 billion of that is pure subsidy. It amounts to a tax on Americans.

And while they're collecting this premium to complete calls from America, many countries use discriminatory rates to charge carriers from other parts of the world substantially less for similar access.

High and discriminatory settlement rates are symptoms of uncompetitive markets. They represent toll booths on the Global Information Superhighway, and the tolls are still too high.

It's time for strong action by the U.S. government to demonstrate that comparable market access is no longer an abstract hope. It's a principle, a standard for telecommunications trade between the U.S. and other countries, and a necessity for giving customers the level of services they want.

Specifically, we are asking the Federal government to take action now.

We are requesting that the FCC act on the filing we made a year ago and develop uniform rules that would make comparable market access a standard for foreign carriers to enter the U.S. telecom services market. And we're asking the FCC to review the France Telecom/Deutsche Bundespost Telekom/Sprint deal in the context of that standard.

We're calling on the commission to use its statutory authority to require foreign carriers looking to do business in the U.S. to first demonstrate that their home markets are open to competition in basic services, and provide the kind of network interconnections that go with true competition.

And, of course, we want the commission to insist that any foreign carrier looking to compete in this market offer cost-based, non-discriminatory accounting rates to all U.S. carriers.

The Department of Justice is already reviewing the antitrust issues raised by the France Telecom/Deutsche Bundespost Telekom investment in Sprint. But I can't imagine any set of conditions imposed here that would be more effective than the establishment of real competition in France and Germany.

With that in mind, we're requesting that the U.S. Trade representative begin negotiations to achieve comparable access in France and Germany, and we're asking the U.S. Congress to examine the larger issue of comparable market access globally.

This kind of attention to the market for services would be entirely consistent with the support already provided by the Clinton Administration for the rising trend in American exports of telecommunications equipment. The freedom of American carriers to provide their customers with end-to-end global services should not be impeded by political boundaries.

We're not asking the U.S. government to create a draconian set of market entry conditions here. The bottom line is simply this: We want U.S. carriers to have the practical opportunity to compete in the home markets of other carriers on a comparable basis with the opportunity those carriers have in the U.S.

I have great respect for France Telecom/Deutsche Bundespost Telekom and Sprint. AT&T has known them individually as customers, competitors and suppliers. I don't even fault the French and German companies for trying to take advantage of the lopsided market access policies in America.

But I would find fault with American public policy if it continues to allow this kind of market imbalance on a case by case basis. American policy-makers should be leaders in seeing that national boundaries don't stand between customers and competitive choices.

We appreciate the progressive forces at work in Europe. They recognize the value and the necessity of competition in delivering the benefits of the Information Superhighway.

We applaud their efforts to open up their markets to competition. And we sincerely hope that the U.S. government will support those efforts by setting policies that encourage full and fair competition in basic communications services.

If our government is successful in that, America will earn the gratitude of all future

travelers on the Global Information Superhighway, whatever their starting points, and whatever their destinations.

Thank you very much.

MATTHEW J. BRAUN, A YOUNG SCHOLAR

Mr. MOYNIHAN. Mr. President, yesterday's Chicago Tribune carried splendid news indeed about the scholastic achievements of Mr. Matthew J. Braun, the son of our distinguished colleague from Illinois, Senator CAROL MOSELEY-BRAUN. Matthew Braun, who is a senior at St. Ignatius College Preparatory School in Chicago, has been named a semifinalist in the National Achievement Scholarship Program for Outstanding Negro Students, which is conducted by the National Merit Scholarship Corp. Fewer than 90 high school students in the State of Illinois, and just 1,500 nationally, have earned this distinction. As a semifinalist, Matthew is now eligible to be awarded one of 800 achievement scholarships.

This is a fine accomplishment and one in which Matthew and his family should take great pride. I know all Senators join me in congratulating Matthew Braun and his mother, Senator MOSELEY-BRAUN, in whose footsteps Matthew already seems to be following—withal he is leery of politics and determined not to become a lawyer. I ask unanimous consent that the article from the Chicago Tribune of September 29, 1994, be printed in the RECORD.

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

BLACK SCHOLARSHIP SEMIFINALISTS ANNOUNCED

More than 80 Illinois high school students—including 16 from Chicago's Whitney Young Magnet High School—are among the approximately 1,500 semifinalists competing in a national scholarship program for African-American students.

The seniors are eligible for about 800 achievement scholarships, worth about $3 million, from the National Achievement Scholarship Program for Outstanding Negro Students. The privately financed program is being conducted by the National Merit Scholarship Corp.

This year's Illinois semifinalists include:

AURORA: Lakeisha D. Heard, Nsesa M. Kazadi, Tly R. Martin, Dorothy J. Pleas, Illinois Science and Math Academy; Claudine V. Rigaud, Rosary High School; Shea D. Caruthers, Kimberly J. Collins, Waubonsie Valley High School.

BELLEVILLE: Norval J. Hickman, Governor French Academy.

BOLINGBROOK: Jean C. Domercant, Bolingbrook High School.

CHATHAM: Eboseyl L. Imeokbaria, Glenwood High School.

CHICAGO: Darnell Lewis, Nicholas J. Sneed, Carver High School; Torean I. Wilson, Hales Franciscan High School; Femi Allen, Juvon Dixon, Folann S. Dosunmu, Andre E. Haynes, Tony J. Pemer, Nwadinobi N. Ude, Kenwood Academy; Tayo O. Akinyemi, Christiana O. Oladini James, Abeni Shauri, Harlette S. Washington, Lincoln Park High School; Tony B. Jones, Kobie O. Mahin, Morgan Park High School; Michael D. Brown, Quigley Preparatory Seminary; Tashaunda R. Baskerville, Matthew J. Braun, Chika I. Chukudebelu, Salah M. Goss, Muriel Jean-Jacques, Jon C. McDonald, Robyn D. Reid, Chad J. Saunders, Moses W. Scott, St. Ignatius College Preparatory School; Funmilayo Akiniawon, St. Scholastica High School; Sparkle Labon, Steinmetz High School; William E. Spann, Randel Tempo, University of Chicago Lab High School; Lincoln J. Chandler; Tallah A. Charlton, Enesha M. Cobb, George R. Davis, Traci L. English, Kimberly L. Hale, Debrell L. Head, Delma Y. Jarrett, Twila R. Jones, Allsya L. Lowery, Lugman M. Muhammad, Joshua Oliver, Griffin A. Rodriguez, Rashaan J. Sales, Lora D. Turner, Annisah Umran, Whitney Young Magnet High School.

COLLINSVILLE: Jane M. Strode, Collinsville High School.

COUNTRY CLUB HILLS: Shavon M. McGowan, Hillcrest High School.

CRYSTAL LAKE: Braden T. Lozan, Crystal Lake Central High School.

DE KALB: Robin E. West, De Kalb High School.

DOWNERS GROVE: Maya K. May, Downers Grove South High School.

ELGIN: Amber A. O'Neal, Larkin High School.

EVANSTON: Marcy A. Ellis, Leah E. Squires, Evanston Township High School.

FLOSSMOOR: Katrina L. Rhodes, Homewood-Flossmoor High School.

HARVEY: Adam B. Murphy, Thornton Township High School.

LA GRANGE PARK: Willie C. Cobbins, Nazareth Academy.

LAKE ZURICH: Dalasini S. Cummings, Lake Zurich High School.

LANSING: Nicole Peoples, Thornton Fractional South High School.

MUNDELEIN: Charmaine A. Smith, Carmel High School.

OAK PARK: Devardi Parker, Fenwick High School; Vincent T. Ireland, Oak Park-River Forest High School.

OLYMPIA Fields: Frederick C. Brunson, Tiphany H. Pugh, Ingrid E. Roseborough, Rich Central High School.

PARK FOREST: Anderi D. Heward-Mills, Rich East High School.

PEORIA: Khary M. Burke, Peoria High School.

ROMEOVILLE: Terrence D. Hill, Romeoville High School.

ROSELLE: Kirin L. Murphy, Lake Park West High School.

SKOKIE: Nadege J. Souvenir, Niles North High School.

SOUTH HOLLAND: Leilah D. McNabb, Thornwood High School.

SPRINGFIELD: Halton A. Peters, Springfield High School; Gloria J. Winger, Springfield Southeast High School.

WESTVILLE: Heather D. DeBarba; Westville High School.

WHEATON: William C. Terry, St. Francis Preparatory High School; Selamawi H. Asgedom, Wheaton North High School.

WILMETTE: Philip W. Ingram, Loyola Academy.

A ROLE FOR TAIWAN IN THE UNITED NATIONS

Mr. PELL. Mr. President, on Tuesday Dr. Trong Chai came to Washington as part of a large Taiwanese delegation to the United States seeking support for Taiwanese membership in the United Nations.

I have known Dr. Chai for a great number of years. He was the founder and first president of the Formosan Association for Public Affairs [FAPA], an organization that has long struggled to draw attention to political and economic developments on Taiwan. Dr. Chai's career is testimony to the impressive changes that has occurred in Taiwan.

Four years ago I pressed the Taiwanese Government to permit Dr. Chai, then a professor of political science at the City University of New York, to return to Taiwan. Permission was granted and, after 30 years of exile in the United States, Dr. Chai made the journey back to his homeland. There he formed an organization to press for the international recognition of Taiwan.

Two years later Dr. Chai was elected to the Legislative Yuan, Taiwan's parliament, and this month he became the co-chair of the Committee on Foreign Relations.

In the last few weeks I have had the opportunity to meet with leaders of both the opposition and ruling party in Taiwan. I have been impressed with the unanimity of agreement that exists concerning the issue of Taiwanese membership in the United Nations. The economic success of Taiwan and its emerging democracy have contributed to a rising nationalism in Taiwan. In my view, the nature of Taiwan's success will ultimately bring it the international recognition that it deserves. I am pleased that the Taiwanese leadership is united in its efforts to achieve this goal.

At a luncheon sponsored by the Formosan Association for Public Affairs earlier this week, Dr. Chai presented his views concerning why the United States should support Taiwan's readmission to the United Nations.

I ask unanimous consent that Dr. Chai's speech be included in the RECORD.

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

THE UNITED STATES SHOULD SUPPORT TAIWAN IN JOINING THE UNITED NATIONS

(By Trong R. Chai)

Today is a day for family reunions in Taiwan. It is the day of Taiwan's Moon Festival, a day when the family in Taiwan lift their heads together and enjoy the full moon. We are here to lower our heads for a moment and think about why there is no international family reunion with Taiwan.

On October 25, 1971, The United Nations, by a vote of 76 to 35, passed GA/RES 2758, recognizing the government of China to be represented in the U.N. With this resolution, the other entity for China represented by Chiang Kai-Shek was deemed illegal and expelled from the U.N. Since then, the people of Taiwan have been shut off from this international organization.

Taiwan is qualified to be a U.N. member. It has scored great economic achievements: a GNP of $220 billion which ranks 20th in the world, a Per Capita Income of $10,500 that ranks 25th, and a foreign trade volume which

ranks 13th with a foreign reserve that stands at world's pinnacle. Judging from these records, Taiwan should be admitted to the U.N.

Among the world's 191 nations, only Switzerland, Holy See, Tonga, Nauru, Tuvalu, Kiribati and Taiwan are not U.N. members. Taiwan is the only nation truly left out of the U.N. Switzerland, the perennial neutral nation, never has the intention of becoming a U.N. member. The other five nations, with an aggregate population of no more than 190,000, occupy small, limited areas of land, and are not willing to join the U.N. Taiwan has been willing and able to become a member of the world organization. However, due to political reasons, it has been denied U.N. membership. The denial of representation for 21 million Taiwanese people, who rank 43rd most populous in the world, violates not only moral principles but also human rights.

It has been 23 years since Chiang Kai-Shek's Kuomintang (KMT) was expelled from the U.N. Although the people of Taiwan have incessantly expressed their desire to join that world body during these years, their efforts have thus far been in vain. There are two reasons for the failure:

First, as one of the permanent members of the U.N. Security Council, the People's Republic of China, ignoring the internationally known fact that Taiwan has been independent for forty-five years, still insists that "Taiwan is a part of China" and use this as a reason for denying Taiwan's U.N. membership.

Second, since it retreated to Taiwan in 1949, the KMT government has adhered to the so-called one-China policy, which creates not only great confusion among the international community but also causes Taiwan to linger outside the U.N. door.

Recently, the KMT government wishes to imitate the precedents set by the two Koreas and the two Germanys and hope that parallel representation would be applicable to Taiwan. Thus, the KMT formulates the formula of "One nation, two seats," by which Taiwan would be able to join the U.N. along with the People's Republic of China. This approach, however, is unrealistic, doomed to fail.

The reason that all the Koreans and Germans were admitted to the U.N. is that prior to applying for the U.N. membership, both two Koreas and two Germanys had been simultaneously recognized by the international community. In fact, the ground for their admission is based on "two nations, two seats," not "one nation, two seats." Since no nation has simultaneously maintained formal diplomatic relations with both the People's Republic of China and the Republic of China on Taiwan, there is no chance that Taiwan would be admitted to the U.N. with the idea of "one nation, two seats" and in the name of the "Republic of China."

To strengthen the humanistic and moral pleas embedded in their endeavor to join the U.N., a plebiscite must first be held. The plebiscite, to determine whether or not the name of "Taiwan" would be used, would not only help Taiwan reach a consensus on the name among its people but also show the world the will and the determination of the people of Taiwan in joining the U.N. When the people of Taiwan, by a huge margin, decide to use the name of "Taiwan," the world community should give moral support to the people of Taiwan in their application for a new membership.

As a champion of human rights and the leader of the democratic world, the United States has taken political and economic sanctions against those nations that seriously violate human rights. This year, the United States has urged China to improve the human rights situation when granting China the Most Favored Nations status. And now that 21 million Taiwanese people are being denied U.N. membership, the United States should support Taiwan in joining the U.N. on the ground of universality of membership and for the respect of the human dignity of and human rights of the people in Taiwan.

COMMENTING ON THE PRESIDENT'S FOREIGN POLICY

Mr. D'AMATO. Mr. President, I rise today to again comment on the President's foreign policy, or lack thereof.

I am astonished by the indifference of the President's foreign policy and national security team to the unfolding events in Haiti. It is truly incredible that the administration could allow former President Carter to travel to Haiti and hijack our Nation's foreign policy and substitute it with his own, "peace at any price" policy.

Mr. President, I will say no more than if the story is true that while former President Carter was in Haiti negotiating, Secretary of State Christopher and Deputy Secretary of State Talbott attended a Saturday matinee showing of the movie "Quiz Show," on the day before the President was planning to authorize an invasion of Haiti, then what use are they? Logic would dictate that they should be in the White House participating in the planning. Obviously, they were not needed.

This Nation's foreign policy is in a sad state of affairs. Let us hope that our adversaries do not try to take advantage of this fact.

Mr. President, I ask unanimous consent that the text of an article by Joe Klein, appearing in the October 3, 1994, issue of Newsweek, be printed in the RECORD, following my remarks.

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

EMPATHY FOR THE DEVIL: THE REPUBLICAN FANTASY OF DEMOCRATIC FOREIGN POLICY COMES TRUE

It is said that Colin Powell closed the Haiti deal in a conversation with the president late that remarkable Sunday afternoon. Bill Clinton was in the throes of one of his famous, exuberant agonies: should he approve the agreement negotiated by Jimmy Carter or not? Powell induced action by talking to the president as he had been trained to do by Republicans—and in a manner foreign to Democrats: he talked about power, not principle. By the end of this week, he said, you could have 15,000 troops on this island without a shot fired in anger. You can use this power to impose any result you want.

Gulp. It is not an easy thing for a Democrat to contemplate the use of power; postponing it until next week is always better. But, to Bill Clinton's credit, he did the right thing. It's even vaguely possible, if the president proceeds steadfastly, that his bizarre Caribbean adventure will not prove cataclysmic. The Haitian army may be disarmed and the police restrained. The junta may resign. Aristide may return (he may even be a reasonable democrat). The extremists on both sides may choose not to shoot, beat and necklace each other. American troops may escape the crossfire; they may leave before the millennium. But don't bet the farm.

Even if it does work, Bill Clinton has done massive, perhaps irreparable, damage to his presidency, to his party—and, worse, to America's status in the world. His jittery performance seems a vindication of the perennial Republican canard about how Democrats act in office: they either launch the country frivolously into war or act cravenly, undermining American power. It's always Vietnam or Munich, quagmire or capitulation. Indeed, Clinton has proved the accusation insufficiently creative: he has combined the two, capitulating into a quagmire. And he has done this with an all-star cast—a timid secretary of state; an invisible, moralizing national-security adviser; an ignored, technocratic secretary of defense . . . and, to top it off, Jimmy Carter, Prince of Peace. The stray details of the operation are a profound American embarrassment: the helpless secretary of state and his deputy, Strobe Talbott, going off to see the movie "Quiz Show" on Saturday afternoon, as Carter negotiated in Haiti; Carter, telling the Haitians he was "ashamed" of this country's policy, Carter, ignoring the demand that Cédras leave the country because it would be a violation of the dictator's human rights. Who could invent such stuff?

"None of this would be happening," a Republican quipped, "if Warren Christopher were still alive." Which is only partly true. Christopher did detach himself from Haiti policy—in silent protest, apparently—from the very start; and he did, reportedly, oppose the Carter mission. But he is, even when not inert, a Democrat—and prone to the party's peculiar proclivities. "Republicans make many of the same mistakes, but they manage to hide it better," said Leslie H. Gelb, president of the Council on Foreign Relations. "They couch it better. Democrats talk about principle; Republicans, about hardheaded national interests. Democrats want to work things out with their adversaries; Republicans reduce everything to raw considerations of power."

It is true, Republicans screw up, too. Nixon compounded the ignominy in Vietnam. Reagan put marines into Beirut on an ill-conceived mission that ended disastrously. But Reagan also understood—as most Democrats never did—that raw power, as symbolized by the introduction of Pershing missiles in Europe (and the threat of Star Wars, for that matter), might push the Russians past the breaking point in the cold war. The Republican foreign-policy grammar is simply more plausible than the Democrats': the protection of national interests seems a lot more solid than the promulgation of national principles, however worthy.

Moreover, there is a fatal, effete highmindedness in the Democrats' method. It is a two-step prescription for paralysis, perfected by Jimmy Carter. First, a principle is formulated: America should act to expand democracy, to stand up for human rights, to root out thugs. But step two, the all-purpose application of empathy, inevitably negates step one: we must try to understand evil rather than condemn it. There are root causes. Society produces a Cédras (just as it produces our own street thugs). Redemption is always possible. Thugs can evolve. Raoul, is there something you want to share with us? In this case, Carter's ladling of empathy served to create an embarrassing step three:

a questioning of Bill Clinton's initial motives. If Cédras were "honorable" enough—Powell's word—to adhere to this agreement, maybe Clinton was motivated by domestic politics to overstate the case against the thugs.

One wonders about Clinton. "There is no instinct for power," says a disgusted administration official. "Policy discussions are conducted on a level of abstraction entirely disconnected from real experience. There is an operational incompetence that is profound and intractable. Nor do many of these people [in the inner circle] have practical political experience. None of them has ever run for sheriff." It gets worse. On the day after Jimmy Carter publicly denigrated the Clinton Haiti policy—and after Carter, remarkably, boasted to The New York Times that he lobbied foreign leaders to oppose the United States position on the gulf war—the State Department smiled on the peanut farmer's pending efforts to solve . . . Korea. "He is a unique asset," said Assistant Secretary Robert Gallucci. The mind reels.

JOHN HUME'S WORDS OF WISDOM

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues a piece written by John Hume that appeared in last Friday's Washington Post. I ask unanimous consent that at the end of my remarks, Mr. Hume's piece be inserted in the RECORD.

John Hume is well known to many of us as a friend and colleague, a fellow legislator, a thoughtful and skilled negotiator, a man of peace. I believe John Hume, with his steadfast belief in the gifts and capabilities of the Irish peoples, deserves the lion's share of the credit for the positive developments we are witnessing in Northern Ireland.

During John Hume's visit to the United States last week, we were treated to his eloquent words of wisdom about how to maintain the momentum, and ultimately, achieve peace in Northern Ireland. Several members of the Foreign Relations Committee met with him personally at a coffee meeting I attended just downstairs in the Foreign Relations Committee room.

Many of the sentiments that Mr. Hume expressed to the committee are reiterated in his recent article. I am particularly impressed with John Hume's admission that his views have been shaped by his European experience and his contact with the United States. Mr. Hume is right on target when he suggests that many of us do not give a second thought to the fact that the European Union, one of the most powerful economic and political blocs in the world, has as its members both Germany and France, countries with a long history of mutual animosity and war. He also reminds us that the United States is a shining example of a country where "the essence of unity is the acceptance of diversity." Seeing John Hume's vision and political skills, I have great hope that he will one day be able to point to Northern Ireland as an example of a place where diversity is celebrated as a source of stability and democracy.

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

NEW ERA IN IRELAND

With the announcement of a cessation of military activities by the IRA and the commitment of their political voice, Sinn Fein, to peaceful and democratic means to reach an agreement between the people of Ireland that can earn the allegiance of all our traditions, we are now at the beginning of a new era in Ireland. That was the clearly stated objective of my dialogue with Gerry Adams. Since five British governments and 20,000 troops failed to stop the violence, I took the view that if the killing of human beings on our streets could be ended by direct dialogue, then it was my duty to do so. I am naturally pleased that we have achieved this first major step toward lasting stability.

Now we must move on to our next major challenge—to reach agreement on how we share our piece of earth together. The challenge is to find common ground between two fundamentally different mind-sets, the unionist and the nationalist. The unionist mind-set based largely in the Protestant population of Northern Ireland, is akin to that of the Afrikaner who believes that, surrounded by hostility that is real or apparent, the only way to protect his people is to concentrate power in their own hands to the exclusion of all others.

That approach is not only doomed to encourage widespread discrimination and conflict but is ultimately unsustainable. Nor does it do justice to the unionist tradition. The Unionist of Northern Ireland are justly proud of their heritage and their contribution to the world. As many as 11 American presidents came of their stock. They number captains of industry and colonial governors among their great men. They see themselves as a pragmatic, hardheaded, straight-talking, skeptical, robust people and there is much in their history to justify their view.

However, the negative impact of their laager mentality has tended to dry up their creativity and paralyze their political talents. The time has come for them to believe in themselves as their own best guarantors in a future shared with the rest of the people of Ireland. They must realize that because of their geography and their numbers, the problem cannot be solved without them. Their true interest depends precisely on the exercise of their traditional gifts of self-confidence and self-reliance. Let them exercise those gifts now in the face of a historic opportunity by engaging in the political process of dialogue and consensus building.

The nationalist mind-set has traditionally relied less on the discipline of its people and more on its commitment to the territory of Ireland. "This is our land, and you unionists are a minority and you cannot stop us taking it over" can fairly well sum it up. But Irish nationalism has grown in its complexity, and it accepts that unity is not a territorial objective but one that involves people. It is people who have rights and not territory. A divided people can only be brought together by agreement. If coercion entrenches those divisions, only dialogue can bridge them.

In my whole approach to this process, I have been strongly inspired by both my European experience and my contact with the United States. The European Union is the greatest testament to the resolution of conflict. After one of the bloodiest conflicts in history, which left 35 million dead across our continent a mere 50 years ago, Europeans are engaged in a level of cooperation so intense it has blurred the traditional bounds of sovereignty. The political system of the United States commands the loyalty of citizens despite the diversity of their ethnic makeup and experiences. And each U.S. citizen carries in the small change in his or her pocket the maxim that holds the country together—*e pluribus unum*, from many we are one, the essence of unity is the acceptance of diversity.

We in Ireland are engaged in a process that seeks to give reality to this most profound truth. We must create by agreement, as was done in postwar Europe, institutions that respect our diversity but allow us also to work our substantial economic ground together—and by spilling our sweat and not our blood to begin our healing process. If that happens, a new Ireland will evolve, and the model that emerges may be very different from the traditional models of the past. It will be based on agreement and can earn the allegiance of people from all our traditions.

While we work for political agreement, we should also—in conjunction with the Irish abroad, particularly in the United States—work together to build our country economically, concentrating on areas of higher unemployment in the North so that the positive results of the peace process can be visible to our young people. We must give them hope and belief in the constitutional process. We must plan to give them the opportunity to earn a living in the land of their birth and to contribute to its development.

I have had major contacts in the U.S. political and business communities, where people of Irish extraction are prominent in both. I have learned that they would be keen to help in the development effort. Indeed, they are already doing so through the International Fund for Ireland, which has already created 20,000 jobs. Reconstruction goes hand in hand with reconciliation.

My hope, and it is a confident hope, is that the fast approaching 21st century will be the fist century in our island history in which the evil genius of mistrust and violence will be finally laid to rest, and politics alone—in all its dynamism and vigor—will direct the affairs of all of the people of Ireland.

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

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

Mr. BAUCUS. Mr. President, I see the Senator from Pennsylvania on the floor.

I take this time to specifically and particularly thank him for his very, very hard work in helping to resolve a very difficult issue, not only for the country but for the people of Pennsylvania.

I just hope that the people of Pennsylvania have some sense of understanding of all that he has done for Pennsylvania, not only on this issue but other related matters. He has been a tireless worker, a very good Senator

to work with, and that is because his word is his bond. When the Senator from Pennsylvania says he is going to do something, he does it. That is not always true with everyone else in the world we have to work with and deal with sometimes.

But I just take this opportunity to particularly thank the Senator from Pennsylvania for his very diligent and very effective work.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, at the end of this hard week's work, I thank the Senator from Montana. I thank Senator BAUCUS, the chairman of our committee, for those warm words. More important, I thank him for his good work, his leadership of our committee, and the good leadership he has given on this bill.

As he knows, high on my agenda from the time I got here was to help Pennsylvania deal with the mountain of trash coming into the Commonwealth. It is a battle our Governor, who first appointed me to this position and gave me the opportunity to serve on the Environment and Public Works Committee with Senator BAUCUS, has fought for a long time.

I thank Senator BAUCUS for coming with Governor Casey and me to Lackawanna County and looking firsthand at our problem and seeing why the people of Pennsylvania want us to fight to get control of our destiny in this matter.

I also thank Senator COATS for his good work. I think the way we worked together across party lines on this issue is an example of what we need to do in this country and in this Congress on so many other issues.

Mr. BAUCUS. Mr. President, will the Senator yield for a question, please?

Mr. WOFFORD. I yield.

Mr. BAUCUS. Mr. President, I would just like to tell the Senator how much I appreciate not only Senator WOFFORD's request but the opportunity to see firsthand the problems that Pennsylvania is faced with, particularly Lackawanna County.

When I visited with the Senator at his request and with the Governor of Pennsylvania, Governor Casey, to see firsthand, I must say regrettably the smell firsthand, the results of this very large unwelcome landfill, and with the trucks rumbling by tearing up pavement and just causing havoc and particularly seeing the concern in the eyes of mothers with small children who were exposed to all this, not only the trucks going up and down the streets and constantly this landfill but also the various problems of the landfill, that made a big difference to the committee and helped the committee forge a solution to this bill.

I thank the Senator for his invitation and for that opportunity for this member of the committee to see firsthand those problems and, therefore, help the committee forge a good solution to the problem.

Mr. WOFFORD. Mr. President, I thank Senator BAUCUS for his further account about his trip to Pennsylvania, which we greatly appreciated. He saw not only our citizens in action as they assembled that day to talk to us and make us look, smell, and listen to them, but he saw our Governor in action.

Our Governor came down with his airplane to make sure we got there. The Senator saw what kind of a fighting Governor Bob Casey is on things when he knows what the common good calls for and that it calls for action. I am very glad we were able to show him that.

On occasions related to the environment, particularly in our committee, we have proved that we can work across party lines for the common good in this country.

The legislation is going to provide, once we get over the final hurdle in the conference and back in final passage, relief to Pennsylvania communities by allowing reductions in out-of-State waste.

Pennsylvania leads the Nation in the amount of imported municipal solid waste. Over 3.8 million tons came into the Commonwealth in both 1992 and 1993. These figures represent over 30 percent of the total waste disposed in Pennsylvania each year. No other State has such a high volume or percentage of out-of-State waste transported for disposal.

Since 1989 Pennsylvania has issued citations for either safety or environmental violations to 29,379 trash trucks. The overwhelming majority of these were issued to trucks from outside Pennsylvania. In addition, 340 trucks were ordered to return to their State of origin because of serious environmental violations. Since 1987, Pennsylvania has collected over $24 million in fines and penalties under the State Solid Waste Management Act. It is unfair for our State to be burdened with regulating and policing landfills whose sole purpose is to accept vast amounts of out-of-State waste.

Pennsylvania has turned around its waste disposal problem in its own house. As recently as 1986 the Commonwealth exported over 3 million tons of municipal solid waste. Now that figure is under 1 million tons annually. Through aggressive efforts in waste management, recycling, and capacity planning, Pennsylvania has effectively created an environmentally sound structure to meet State needs with sufficient capacity into the next century.

In spite of these State efforts, Federal court decisions in recent years have left Pennsylvania helpless to control the increasing amounts of out-of-State waste coming into the Commonwealth. This legislation addresses many of the issues created by those court decisions.

I offered four amendments, which the Environment and Public Works Committee accepted, during consideration of this legislation. The most important of those amendments, which is section 2 of this bill, assures that Pennsylvania will see an actual decrease from the largest exporting States of municipal solid waste during the coming few years. It is time that other States follow the lead of Pennsylvania and develop the necessary capacity for the disposal of their own waste.

Mr. President, the battle for this bill is not finally over, but we have reached an important milestone. This is a vital bill for our country and for our commonwealth.

ENDING TAXPAYERS' CONTRIBUTION TO MEMBERS' HEALTH INSURANCE

Mr. WOFFORD. Mr. President, I would like to close the week in this Hall, at least for me, with a statement before we complete our business here today that makes very clear what happened and what will happen to the amendment I proposed earlier this week that would end the taxpayers' contribution to our health insurance and our choice of private health insurance. It would end that so long as we have failed to take action to assure for the American people the kind of choice of private health insurance that we have arranged for ourselves.

I offered that amendment because I believe it expresses a matter of basic fairness and common sense that Members of Congress should not take from the taxpayers the kind of affordable private health insurance that they will not guarantee for the taxpayers.

Well, through a series of procedural ploys, Members on the other side of the aisle avoided a vote on my amendment. As the saying goes, "They can run, but they can't hide." I intend to be back with this amendment.

For the moment, we should, as we are now, go forward with the District of Columbia appropriations bill. It is necessary before the fiscal year ends today. So I have told the majority leader that I will not offer my amendment to this bill again now.

As I said on the floor last night, it is not my goal to prevent the passage of a vital appropriations bill necessary for the District of Columbia or to prevent passage of Senator COHEN's amendment on health care fraud and abuse, which I strongly support and which is a key element of the health care bills that I have been crafting and fighting for, including the seven-point small first installment that I proposed to the majority leader and Republican leader some days ago.

The majority leader, Senator MITCHELL, has assured me that he will bring

up a bill next week to which my amendment can be attached. I accept his assurance and I intend to take that opportunity.

It does not surprise me that some Members of this body do not want a straight vote on my amendment. I know it is an uncomfortable proposition. It brings the reality of the health care problem very close to home. But it is not easy to explain to the people why Members of Congress have a wide choice of private health plans, guaranteed health insurance which the taxpayers help pay for, when they have not taken action to make that kind of coverage available to the people who pay those taxes and employ them.

People think—and so do I—that Members of Congress should support the plan they live under or live under the plan they support.

My amendment is not just a symbolic step. To me and to many people in this country, this is a matter of basic fairness—do unto others as you would have them do unto you.

My amendment turns that self-evident truth into a reality. I know it is not popular in these Chambers. It was not popular when I introduced a bill to end the free care that Members used to get from the attending physician. But we did it because we discovered together that it was the right thing to do.

There are Members of Congress who say doing nothing on health care will not hurt them at all, who have actually celebrated their success at blocking action for universal health insurance. I hope this amendment will help in a small way to show them that there is nothing to celebrate—not for the American people, and not for us.

From this perch, it is easy to think everything is fine for everyone else when we have such a good, wide choice of health plans, guaranteed at work, and largely paid for by our employer—the taxpayers.

In pressing this amendment, it is not my purpose to take away a good choice of health care plans and employer contributions for Members of Congress. But it is my purpose to see that that kind of opportunity which we have is at long last extended to all of the American people. If we put Congress, if we put ourselves, in the same boat as the American people, I think the need for action will suddenly become much clearer in very personal terms.

We have seen it before. In 1981, Social Security was in deep financial trouble. In 1982, Congress included itself in the system. And the very next year, Congress found a way to come together to put Social Security back on a sound footing. I do not think that was a coincidence.

I hope that people across this country will understand that, instead of taking an up-or-down vote on this very clear, common sense, fair proposition that I put forth, this Senate, so far, at least for today, is avoiding it. I think that is wrong. I think most people in the country think it is wrong. I think it is why so many of them are frustrated with Washington.

One reason I feel confident that this step, in due course, sooner rather than later, is going to be taken by us is because it will be so difficult to look our constituents in the eye and with a straight face say that we are insisting upon our employer, the taxpayers, to contribute to most of our health insurance premiums while we are not willing to come together across party lines and work out a practical, common sense way to do that for the American people.

So I will return with my amendment next week, and I urge all of my colleagues across party lines to support it.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor and suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

RESTRICTING IMPORTATION OF OUT-OF-STATE SOLID WASTE

Mr. LEVIN. Mr. President, the Senate today is passing Senate bill 2345, which is a bill to authorize local governments and Governors to restrict the importation of out-of-State solid waste. I am pleased to be a cosponsor of this bill.

The Senate has passed a similar measure twice in the past. Now, because the House has passed H.R. 4779, a bill on the same subject, we finally have a real opportunity to resolve this matter. I am hopeful that the differences between the two Houses can be worked out and that we can send a bill to the President before we adjourn.

A flow of municipal solid waste across State lines to the lowest bidder, without consideration of other factors, is not in the public's interest. Such a system creates public health and environmental concerns, jeopardizes resource recovery efforts, and challenges unnecessarily a reliable and traditional local governmental responsibility.

As I have indicated during consideration of the previously passed Senate bills, the State of Michigan has had an excellent planning process for many years which recognizes these difficulties and empowers local governments to responsibly manage their waste. Local governments should be free to develop enforceable long-term plans to provide sufficient disposal capacity for local waste. It should be their option, after considering cost, environmental protection, land-use concerns and other factors, to limit the impact of out-of-State waste on their jurisdiction.

Local governments need Congress to act decisively to reduce the uncertainty which has been injected into their planning and budgeting processes by recent Supreme Court decisions. If a good compromise can be reached on the issue of flow control, and I understand that the Senate environment committee is seeking to develop such a compromise, this matter should also be included. I have been contacted by many local governments in Michigan that strongly support enacting flow control legislation in this Congress.

So, Mr. President, I encourage my colleagues to support the swift passage of legislation that will put municipal solid waste disposal decisions back into the hands of the people most directly affected by them and best suited to make them: The taxpayers of the municipalities that generated the waste and to their States.

LOBBYING DISCLOSURE ACT OF 1994

Mr. LEVIN. Mr. President, the Senate will soon consider the conference report on S. 349, the Lobbying Disclosure Act of 1994. The Lobbying Disclosure Act would close loopholes in existing lobbying registration laws. It would, for the first time, cover lobbying of top executive branch officials. It would streamline reporting requirements and reduce paperwork. It will provide effective administration and enforcement, and it will also—and this is very important—establish tough congressional gift rules.

The bill passed the House on Thursday by a bipartisan vote of 306 to 112.

I would like to make four points here to correct some inaccurate statements which have been made about the bill.

First, only paid, professional lobbyists—paid, professional lobbyists—are required to register under this bill, as is intended under current law. But current law is so full of loopholes that most paid, professional lobbyists do not register. Our conference report closes those loopholes.

Like the bill that passed the Senate, the conference report specifically defines a lobbyist as an individual who is "employed or retained by a client for financial or other compensation" to make lobbying contacts—subject, of

course, to de minimis exclusions in the bill. And I have just quoted from section 103(12). No one who lobbies on their own behalf, or on behalf of someone else in a volunteer capacity, is required to register.

Second, if a paid, professional lobbyist who is otherwise required to register spends money on grassroots lobbying—that is, an effort to get individuals to call or write Congress or the executive branch—that paid, professional lobbyist must estimate the amount of money spent by that lobbyist and its paid employees in that effort and must also disclose the name of any person or entity that was paid by them to conduct such a grassroots lobbying campaign. These are the only disclosure requirements in the bill relative to grassroots lobbying. I am there referring to section 105(b)(6) and section 104(b)(5).

Now, some have suggested that section 104(b)(5) would require paid, professional lobbyists to disclose the names of unpaid individuals or volunteers involved in grassroots lobbying whom they contact as part of a lobbying campaign. That is incorrect. Section 104(b)(5), by its terms, requires the disclosure only of a person who is hired by the lobbyist to conduct grassroots lobbying communications. Grassroots lobbying communications are defined to include communications made to the public by paid, professional lobbyists, not communications made from members of the public to the Government. And there I have referred to section 103(8). No requirements at all are placed on any person who contacts the Government to express his or her own personal views.

Third, a suggestion has been made that section 105(b)(5) would require organizations employing lobbyists to disclose their membership lists. This is untrue. This provision, which was added on the Senate floor, requires paid professional lobbyists to disclose the name of any person or entity other than the client who paid the registrant to lobby on behalf of the client. I explained when this provision was adopted by the Senate that it would require only that if a lobbyist's bills are paid by someone other than a client, the identity of the person who pays the bills would have to be disclosed. And I refer to the CONGRESSIONAL RECORD of May 5, 1993, page S5492.

Indeed, the Senate report on the bill specifically states that "the Committee believes that a broad requirement to disclose all coalition members would have serious first amendment implications." And there I refer to the Senate Report 103-37, page 31. The conference amendment contains the same provisions as the Senate bill in this regard.

Fourth, the bill explicitly exempts religious organizations such as churches and associations of churches from having to register. Those sections are 103(9)(B) and 103(10)(B).

This exemption was worked out with the major religious denominations prior to its incorporation in the bill. As the Baptist Joint Committee explained in a September 29, 1994 letter to Representative JOHN BRYANT, the chief sponsor of the legislation on the House side,

> We think that section 103(9)(B) and 103(10)(B) adequately protect the free exercise rights of churches and religious organizations.

I am quoting from the letter from the Baptist Joint Committee of just a few days ago, and the letter goes on:

> This language has been examined and approved by a number of religious organizations and their church/State experts including the Jewish Community, main line Protestants and the United States Catholic Conference. I am, therefore, puzzled by those who question this legislation on the basis of the effect it would have on religious organizations.

In other words, Mr. President, even if a religious organization has a paid, professional lobbyist on its staff, it is not required to register.

I put this information in the RECORD this evening to address questions which some have raised, and hopefully I have succeeded in answering those questions. Of course, I would be happy to answer any questions any of our colleagues might have before this matter reaches the floor or during that time.

I thank the Chair. I yield the floor.

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

The PRESIDING OFFICER. The Senator from Michigan yields the floor and suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to Executive session to consider Executive Calendar No. 692, Ricki Rhodarmer Tigert, of Tennessee, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation.

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

The clerk will report the nomination.

The legislative clerk read as follows:

> Nomination, Ricki Rhodarmer Tigert, of Tennessee, to be a Member of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Is there objection to the consideration of the nomination?

There being no objection, the Senate proceeded to consider the nomination.

CLOTURE MOTION

Mr. LEVIN. I now send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Ricki Rhodarmer Tigert to be a member of the Board of Directors of the Federal Deposit Insurance Corporation:
>
> Byron L. Dorgan, J. Lieberman, Patty Murray, Wendell Ford, Daniel Patrick Moynihan, Pat Leahy, George Mitchell, Paul Sarbanes, Harry Reid, Don Riegle, Harlan Mathews, John F. Kerry, Frank R. Lautenberg, John Glenn, Dennis DeConcini, Christopher Dodd.

NOMINATION OF RICKI TIGERT, OF TENNESSEE, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FDIC

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate proceed to consider Executive Calendar No. 693, Ricki Tigert, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

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

The clerk will report.

The assistant legislative clerk read as follows:

Nomination, Ricki Rhodarmer Tigert, of Tennessee, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Is there objection to the consideration of the nomination?

There being no objection, the Senate proceeded to consider the nomination.

CLOTURE MOTION +

Mr. LEVIN. I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Ricki Rhodarmer Tigert to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation:
>
> Byron L. Dorgan, J. Lieberman, Patty Murray, Wendell Ford, Daniel Patrick Moynihan, Pat Leahy, George Mitchell, Paul Sarbanes, Harry Reid, Don Riegle, Harlan Mathews, John F. Kerry, Frank R. Lautenberg, John Glenn, Dennis DeConcini, Christopher Dodd.

Mr. LEVIN. Mr. President, I ask unanimous consent that Saturday, October 1, count as the intervening day for purposes of rule XXII for both cloture motions.

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

THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to consider Executive Calendar No. 1126, H. Lee Sarokin to be U.S. circuit judge for the third circuit.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of H. Lee Sarokin, of New Jersey, to be U.S. circuit judge for the third circuit.

CLOTURE MOTION

Mr. LEVIN. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 1126, the nomination of H. Lee Sarokin to be United States Circuit Judge for the Third Circuit:

Frank R. Lautenberg, George Mitchell, Byron L. Dorgan, D.K. Inouye, Kent Conrad, Carl Levin, John F. Kerry, Pat Leahy, J. Lieberman, Bill Bradley, Ben Nighthorse Campbell, Paul Simon, John Glenn, Harry Reid, Charles S. Robb, Don Riegle, Joe Biden.

LEGISLATIVE SESSION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1160, 1190, 1227, 1264, 1271, 1275, and 1276.

And I further ask unanimous consent that the nominees be confirmed en bloc, any statements appear in the RECORD as if read; that upon confirmation the motions to reconsider be laid upon the table en bloc, and the President be immediately notified of the Senate action.

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

So the nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

Harold A. Monteau, of Montana, to be Chairman of the National Indian Gaming Commission for the term of three years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Marc Lincoln Marks, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2000.

DEPARTMENT OF DEFENSE

Paul G. Kaminski, of Virginia, to be Under Secretary of Defense for Acquisition and Technology.

NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be admiral

Adm. Stanley R. Arthur, U.S. Navy, 278–30–9765.

INTERSTATE COMMERCE COMMISSION

Gus A. Owen, of California, to be a Member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1997, vice Gregory Stewart Walden.

DEPARTMENT OF TRANSPORTATION

Anthony S. Earl, of Wisconsin, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

Vincent J. Sorrentino, of New York, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

NATIONAL TRANSPORTATION SAFETY BOARD

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the following nomination and that the Senate proceed to immediate consideration: James E. Hall, to be chairman of the National Transportation Safety Board for a term of 2 years.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action.

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

So the nomination was considered and confirmed, as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

James E. Hall, of Tennessee, to be Chairman of the National Transportation Safety Board for a term of two years.

U.S. COAST GUARD

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the following nominations and that the Senate proceed to their immediate consideration: All Officers of the U.S. Coast Guard nominated for promotion to the grade of lieutenant commander in the Coast Guard.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that 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 session.

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

So the nominations considered and confirmed en bloc are as follows:

IN THE COAST GUARD

Coast Guard nominations beginning Michael S. Swegles, and ending James B. Donovan, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1994.

THE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Order No. 661, which is S. 2395, which designates the "Theodore Levin Federal Building and Courthouse" in Detroit, MI; and Calendar Order No. 662, H.R. 4543, which designates the "Matthew J. Perry U.S. Courthouse" in Columbia, SC; that the committee amendments, where appropriate, be agreed to, the bills be read three times, passed, and the motions to reconsider be laid upon the table, en bloc; that the title amendment be agreed to; further, that consideration of these items appear individually in the RECORD and that any statements relative to these calendar items appear at the appropriate place in the RECORD.

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

THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE

The Senate proceeded to the consideration of the bill (S. 2395) to designate the United States Federal building and courthouse in Detroit, MI, as the "Theodore Levin Federal Building and Courthouse," and for other purposes, which had been reported from the Committee on Environment and Public Works, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE.

(a) REDESIGNATION.—The courthouse facility located at 231 West Lafayette, in Detroit, Michigan, shall be known and designated as the "Theodore Levin [Federal Building and] Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse facility referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin [Federal Building and] Courthouse".

So the committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title of the bill was amended so as to read: "To designate the United States Courthouse in Detroit, Michigan, as the Theodore Levin Courthouse, and for other purposes."

MATTHEW J. PERRY, JR. COURTHOUSE

The bill (H.R. 4543) to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, SC, as the "Matthew J. Perry, Jr. United States Courthouse" was considered, ordered to a third reading, read the third time, and passed.

CHILD ABUSE ACCOUNTABILITY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3694, the Child Abuse Accountability Act, just received from the House; and that bill be deemed read three times, passed, and a motion to reconsider be laid upon the table.

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

So the bill (H.R. 3694) was deemed read three times, and passed.

ALZHEIMER'S HOME AND COMMUNITY CARE PROJECT ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 680, S. 1422, relating to claims court jurisdiction with respect to land claims of the Pueblo of Isleta Indian Tribe; that the committee substitute be agreed to; that the bill be read a third time, passed, the motion to reconsider laid upon the table; that the amendments to the title be agreed to; and that any statement appear at the appropriate place in the RECORD as if read.

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

The Senate proceeded to consider the bill (S. 1422), a bill to amend the provisions of the Public Health Service Act regarding grants to States for projects relating to Alzheimer's disease, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. JURISDICTION.

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Court of Federal Claims may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

So the substitute amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe."

Mr. BINGAMAN. Mr. President, I rise with my distinguished colleague, Senator DOMENICI, to present to the Senate S. 1422, a modest measure of great importance to our constituents, the people of the Pueblo of Isleta in New Mexico. Our distinguished colleagues from New Mexico in the House, Representatives SKEEN and SCHIFF, have introduced companion legislation to S. 1422 and are awaiting the Senate's action today.

I want to thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the chairman of the Subcommittee on Courts and Administrative Practices, Senator HEFLIN, for their support of this measure and their help in getting us to this point.

This legislation provides authority for New Mexico's Pueblo of Isleta to file an aboriginal land claim in the U.S. Court of Federal Claims under the Indian Claims Act. The bill does not pass judgment on the claim or give the Pueblo priority on the court's docket. If, however, the Pueblo of Isleta proves to the court that it does indeed have a valid claim of aboriginal land use and occupancy, then appropriate monetary compensation would be determined by the court.

Mr. President, S. 1422 is identical to a bill we, along with Congressmen SCHIFF and SKEEN, sponsored the 102d Congress. In the previous Congress, a hearing was held on the House bill, and it passed to the House late in the session. Unfortunately, the Senate was unable to act before adjournment. I am pleased that the bill will not suffer a similar fate in the 103d Congress.

During the previous Congress, in April 1992, testimony before the House Judiciary Subcommittee on Administrative Law and Governmental Relations made clear that the Pueblo of Isleta—like all the Pueblo tribes in New Mexico—had standing to pursue land claims under the Indian Claims Act of 1946. Under the Act, claims could be based either on title to the land or aboriginal use, but all claims must have been by 1951.

Unfortunately, due to incomplete or improper advice from counsel, the Pueblo of Isleta filed only a limited claim based on a Spanish Land Grant, to which it had a written record, before the 1951 deadline. The Pueblo apparently was not informed by counsel that it could file a claim based on aboriginal land use. Significantly, the Pueblo's counsel was a Bureau of Indian Affairs official who was later found by the court to have given erroneous advice on a similar matter to the Pueblo of Zuni. The Pueblo, like many other tribes, was dependent on the Bureau of Indian Affairs for advice and assistance regarding land claims in the 1940s and 1950s.

Mr. President, S. 1422, would simply allow the Pueblo of Isleta to pursue a claim today, much like legislation Congress approved a few years ago for the Pueblo of Zuni. Again, the bill does not give the Pueblo priority on the court's docket, and it does not pass judgment on the claim itself.

The people of the Pueblo of Isleta are entitled to their day in court. This bill assures them of that right, and I urge its swift passage.

TO APPROVE THE LOCATION OF A THOMAS PAINE MEMORIAL

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 227, introduced earlier today by Senators FORD and STEVENS, to approve the placement of a monument in area II of the District of Columbia, to honor Thomas Paine; that the resolution be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to passage of this item be printed at the appropriate place in the CONGRESSIONAL RECORD.

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

So the joint resolution (S.J. Res. 227) was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 227), with its preamble, reads as follows:

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved

November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407 as amended by P.L. 102-459 authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial may be located in Area I: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a Thomas Paine Memorial authorized by Ruble Law 102-407 as amended by P.L. 102-459 and within Area I as described in Public Law 99-652, is approved.

Mr. FORD. Mr. President, this joint resolution will approve the placement of a memorial to Thomas Paine in the District of Columbia. I am pleased to be joined in this effort by the distinguished Senator from Alaska and ranking member of the Committee on Rules and Administration, Senator STEVENS.

Two years ago the Senate adopted H.R. 1628. This bill authorized the construction of a memorial in the District of Columbia to honor Thomas Paine. The concept of a Thomas Paine memorial began with our former colleague, Senator Symms. At the time he first introduced legislation pertaining to the Paine memorial, it had the support of 77 cosponsors in the Senate.

This law, Public Law 102-407, authorized the Thomas Paine National Historical Association U.S.A., Memorial Foundation to establish the memorial to Thomas Paine. The proponents of this memorial wish to obtain a site in area I of the District of Columbia. Area I roughly comprises the areas of the District of Columbia and the environs within The National Mall, the monumental core, and along the banks of the Potomac River in the monumental core of the city.

The Secretary of the Interior must approve the location of a commemorative work in area I, in consultation with the National Capital Memorial Commission. On April 12, 1994, that Commission recommended the placement of the Thomas Paine Memorial in area I. And in a letter dated September 28, 1994, the Secretary of the Interior concurred with that recommendation.

Under the law, the Congress must now approve the Secretary's recommendations within 150 days, by a separate legislative authority. Accordingly, this joint resolution will approve the placement of the Thomas Paine Memorial in area I or II of the District of Columbia.

I urge my colleagues to support this resolution. I ask unanimous consent that there be printed in the RECORD a letter from the Secretary of the Interior, notifying the Senate of his support for the placement of the memorial.

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

THE SECRETARY OF THE INTERIOR,
Washington, September 28, 1994.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft joint resolution, "Approving the location of a Thomas Paine Memorial." We recommend that the joint resolution be introduced, referred to the appropriate committee for consideration, and enacted.

The draft joint resolution would grant authority to consider location of the Thomas Paine Memorial in Area I. Upon receiving legislative authority to erect a memorial, proponents begin the process of site selection. However, in cases where proponents wish to obtain a site in Area I as defined by Public Law 99-652 (100 Stat. 3650), a separate legislative authority to place the memorial within Area I is necessary. Roughly, Area I comprises areas of the District of Columbia and environs within the National Mall, the Monumental Core, and along the banks of the Potomac River in the Monumental Core area of the city.

Public Law 102-407 (October 13, 1992, 106 Stat. 1991) authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial to honor the United States patriot, Thomas Paine. Thomas Paine was a Revolutionary War Era political philosopher who, through his widely-reproduced essays such as "Common Sense" and the "Crises" papers, kept the cause of independence alive and actively supported by the colonial citizenry.

The Thomas Paine National Historical Association U.S.A. Memorial Foundation has made this request so that all sites within Area I and Area II as defined by the Act may be available for consideration as the site for the Thomas Paine Memorial. Section 6(a) of the Act provides that the Secretary of the Interior (the Secretary) may approve the location of a commemorative work in Area I only if he finds that the subject of the work is of preeminent historical and lasting significance to the Nation. That section further provides that the Secretary, after consultation with the National Capital Memorial Commission, shall notify the Congress of his determination that a commemorative work may be located in Area I. Further, the Act provides that an Area I location shall be deemed disapproved unless within 150 days of the notification it is approved by law by the Congress.

On April 12, 1994, the National Capital Memorial Commission recommended that the Thomas Paine Memorial is eligible for location within Area I. I agree with this determination, and find the subject to be of preeminent historical and lasting significance to the Nation. I recommend that the Thomas Paine Memorial may be located within Area I.

In accordance with section 6(a) of the Act approved November 14, 1986 (100 Stat. 3650), notice is hereby given that I recommend the potential location of this authorized memorial in Area I, that through my designee, I have consulted with the National Capital Memorial Commission, and that I have determined that the Thomas Paine Memorial may be located in Area I. Under section 6(a) of the Act, the recommendation for Area I location shall be deemed disapproved unless, if not less than 150 days after this notification, this recommendation is approved by law. Therefore, we urge prompt action on this joint resolution.

The Office of Management and Budget had advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBITT.

AMENDING THE ENERGY POLICY AND CONSERVATION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Energy Committee be discharged from S. 2466, a bill related to the Energy Policy and Conservation Act; that the Senate proceed to its immediate consideration; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statement appear at the appropriate place in the RECORD.

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

So the bill (S. 2466) was passed, as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act of 1994".

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

SEC. 102. TITLE I AMENDMENTS.

Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

SEC. 103. TITLE II AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

EARTHQUAKE HAZARDS REDUCTION ACT AUTHORIZATION

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 596, H.R. 3485, the Earthquake Hazards Reduction Act authorization, that the committee amendment be agreed to, the bill as amended be deemed read three times, passed, and the motion to reconsider be laid upon the table, that the title amendment be agreed to; further, that any statements appear in the RECORD as if read.

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

Mr. ROCKEFELLER. Mr. President, today, the Senate reaffirms the Nation's investment in important Federal technologies designed to mitigate the terrible damage that can be caused by earthquakes. As chairman of the Subcommittee on Science, Technology,

79-059 O—97 Vol. 140 (Pt. 19) 29

and Space, I am pleased to have the Senate consider H.R. 3485, a bill which reauthorizes the mitigation activities of the four Federal agencies participating in the National Earthquake Hazards Reduction Program.

The reauthorization of the National Earthquake Hazards Reduction Program will support ongoing interagency efforts to develop and apply technologies that reduce the loss of life and property due to earthquakes. The January 17, 1994, earthquake centered in Northridge, CA, serves as an important reminder that catastrophic earthquakes are inevitable in the United States. However, compelling evidence demonstrates that the lessons learned from the 1989 earthquake in Loma Prieta, CA, enabled the program agencies to prepare structures in southern California to withstand better the Northridge earthquake.

The small investment in research and development that we have made over the past 17 years in the National Earthquake Hazards Reduction Program has yielded tremendous benefits for the 38 States and 3 territories with significant seismic risks. While California is likely to experience major earthquakes, other States such as Alaska, Montana, and even West Virginia benefit from the technologies developed under the National Earthquake Hazards Reduction Program to retrofit existing structures or construct new ones which will better withstand earthquakes.

H.R. 3485 was passed by the House of Representatives and referred to the Senate Commerce Committee on November 16, 1993. The Subcommittee on Science, Technology, and Space held a hearing on May 17, 1994, on the legislation and the success of technologies developed and transferred to localities and the construction industry. On August 11, 1994, the Commerce Committee approved a substitute to H.R. 3485.

H.R. 3485 reauthorizes the earthquake program activities of four Federal agencies: the Federal Emergency Management Agency [FEMA], U.S. Geological Survey [USGS], National Science Foundation [NSF], and National Institute of Standards and Technology [NIST]. As approved, the bill authorizes the program at the President's request for fiscal year 1995 at $103.2 million and for fiscal year 1996, $106.3 million.

This bill also requires as assessment of current earthquake engineering research and testing capabilities in the United States. These shake table facilities have helped engineers develop ways to strengthen buildings and other structures during an earthquake. It has been 10 years since the last facilities assessment was conducted, and great strides have been made during this period in determining the type of force generated by different earthquake faults in the United States as well as in other countries.

Technologies developed under the National Earthquake Hazards Reduction Program were demonstrated successfully in the Northridge earthquake earlier this year. Still, $6 billion was paid out by private insurers in addition to $9 billion in Federal assistance. Due to the high costs of earthquake damage, it is in all our interests to continue supporting national research and technology efforts to mitigate losses.

I would like to commend Representative GEORGE BROWN, chairman of the Science, Space, and Technology Committee for his leadership in the area of earthquake research and his commitment to the National Earthquake Hazards Reduction Program. I urge my colleagues in the Senate to join me and pass H.R. 3485. I ask that H.R. 3485 be reprinted in its entirety and accompany my statement for the RECORD.

The bill (H.R. 3484) was deemed read three times and passed.

The title amendment was amended so as to read: "To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1995 and 1996."

ENERGY POLICY AND CONSERVATION AMENDMENTS ACT

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceeded to the immediate consideration of Calendar No. 569, Senate bill 2251, a bill to amend the Energy Policy and Conservation Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2251) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported to the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

SEC. 102. TITLE I AMENDMENTS.

(a) Part B of title I of the Energy Policy and Conservation Act is amended—

(1) in section 160 (42 U.S.C. 6240), by striking subsection (d); and

(2) by amending section 165 (42 U.S.C. 6245) to read as follows:

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity;

"(B) the types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any conditions affecting the physical integrity of any Reserve facility, or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a 750 million barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of 1 billion barrels;

"(G) a description of the current method of drawdown and distribution to be utilized; and

"(H) an explanation of any changes made in the matters described in subparagraphs (A) through (G) since the transmittal of the previous report under this section;

"(2) a summary of the actions being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) a review of any proposal received from a person, including a State or local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal;

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum Reserve and SPR Petroleum Account;

"(7) a summary of existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part.".

(b) Part C of title I of the Energy Policy and Conservation Act is amended by striking section 173 (42 U.S.C. 6249b).

(c) Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251) by striking "1994" each time it appears and inserting "1999".

(d) CONFORMING AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by striking out the item relating to section 173 of part C of title I.

SEC. 103. TITLE II AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285) by striking "1994" each time it appears and inserting "1999".

TITLE II—AMENDMENTS TO DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 201. STANDARDIZATION OF REQUIREMENTS AFFECTING DEPARTMENT OF ENERGY EMPLOYEES.

(a) REPEAL.—Part A of title VI of the Department of Energy Organization Act and its catchline (42 U.S.C. 7211, 7212, and 7218) are repealed.

(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

TITLE III—INITIATIVES PERTAINING TO THE LOWER MISSISSIPPI DELTA REGION

SEC. 301. FINDINGS.

(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100–460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities for Delta Region residents; and

(4) the Delta Initiatives Report recommended—

(A) the implementation of precollege education programs in mathematics and science as well as other initiatives to enhance the educational and technical capabilities of the Delta work force;

(B) that States and local systems seek ways to expand the pool of qualified educators in mathematics and the sciences;

(C) that institutions in the Delta Region work with local school districts to promote mathematics and science education;

(D) that Federal agencies target more research and development monies in selected areas to institutions of higher education in the Delta Region, especially Historically Black Colleges and Universities;

(E) that institutions of higher education establish a regional consortium to provide technical assistance and training to increase international trade between businesses in the Delta Region and foreign countries;

(F) that the Federal government should create economic incentives to encourage the location of value-added facilities for processing agricultural products within the Delta Region; and

(G) that Congress provide practical incentives to encourage the construction of alternative fuel production facilities in the Delta Region.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "Center" means the Delta Energy Technology and Business Development Center established under section 303 of this Act;

(2) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100–460;

(3) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream. . . Fulfilling the Potential";

(4) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this Act;

(5) "Department" means the United States Department of Energy, unless otherwise specifically stated;

(6) "departmental laboratory" means a facility operated by or on behalf of the Department of Energy that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(d)(2)) or other laboratory or facility the Secretary designates;

(7) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education act of 1965 (20 U.S.C. 1061(2));

(8) "minority college or University" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3));

(9) "persons in the Delta Region" means an entity primarily located in the Delta Region, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

(A) a for-profit entity;

(B) a private foundation or corporation exempt under section 501(c)(3) of the Internal Revenue Code;

(C) a nonprofit organization such as a public trust;

(D) a trade or professional society;

(E) a tribal government;

(F) institutions of higher education; or

(G) a unit of State or local government; and

(10) "Secretary" means the Secretary of Energy, unless otherwise specifically stated.

SEC. 303. DELTA ENERGY TECHNOLOGY AND BUSINESS DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Secretary shall enter into an agreement with Louisiana State University in partnership with Southern University in Baton Rouge, Louisiana, to establish the Delta Energy Technology and Business Development Center. The agreement shall provide for cooperative agreements with the University of Arkansas at Pine Bluff, Arkansas, and Alcorn State University in Lorman, Mississippi, and other universities and institutions in the Delta Region, to carry out affiliated programs and coordinate program activities at such universities and institutions.

(b) PURPOSE.—The purpose of the Center shall be to—

(1) foster the creation and retention of energy resource and manufacturing and related energy service jobs in the Delta Region;

(2) encourage the export of energy resources and technologies, including services related thereto, from the Delta Region;

(3) develop markets for energy resources and technologies manufactured in the Delta Region for use in meeting the energy resource and technology needs of foreign countries;

(4) encourage the successful, long-term market penetration of energy resources and technologies manufactured in the Delta Region into foreign countries;

(5) encourage participation in energy-related projects in foreign countries by persons in the Delta Region as well as the utilization in such projects of energy resources and technologies significantly developed, demonstrated, or manufactured in the Delta Region; and

(6) assist in the establishment of technology transfer programs in cooperation with Federal laboratories to create businesses in energy resources and technology in the Delta Region.

(c) GENERAL.—The Center, in cooperation with participating universities and institutions in the Delta Region, shall—

(1) identify and foster the establishment of flexible manufacturing networks in consultation with the States of the Delta Region to promote the development of energy resources and technologies that have the potential to expand technology development and manufacturing in, and exports from, the Delta Region;

(2) provide technical, business, training, marketing, and other assistance to persons in the Delta Region;

(3) develop a comprehensive database and information dissemination system, that will provide detailed information on the specific energy resources and technologies of the Delta Region itself, as well as domestic and international market opportunities for businesses in the Delta Region, and electronically link the Center with other institutions of higher education in the Delta Region;

(4) establish a network of business and technology incubators to promote the design, manufacture, and sale of energy resources and technologies from the Delta Region;

(5) enter into contracts, cooperative agreements, and other arrangements with the Federal government, international development agencies, or persons in the Delta Region to carry out these objectives; and

(6) coordinate existing Department and other Federal programs having comparable goals and purposes.

(d) ASSISTANCE FROM THE SECRETARY.—The Secretary is authorized to provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center and affiliated participating universities and institutions to carry out its activities under this section.

(e) GRANTS.—The Secretary is authorized to provide grants and other forms of financial assistance to the Center for the Center and participating universities and institutions to (1) support the creation of flexible manufacturing networks as identified in subsection (c)(1); and (2) develop the comprehensive database described in paragraph (c)(3); and (3) support the training, marketing, and other related activities of the Center.

(f) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

(A) grants and donations from private individuals, groups, organizations, corporations, foundations, State and local governments, and other entities; and

(B) transfers of funds from other Federal agencies.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the programs under this section and for the establishment, operation, construction, and maintenance of the Center and facilities of participating universities and institutions.

SEC. 304. INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended by adding a new section 400K as follows:

"INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION

"SEC. 400K. (a) PURPOSE.—The purpose of this section is to encourage the use of energy conservation measures in the schools and hospitals of the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary is authorized to provide grants to schools or hospitals, or to consortiums consisting of a school or hospital and one or more of the following: State or unit of local government; local education agency; State hospital facilities agency; or State school facilities agency. Such grants shall be for purposes of conducting innovative energy conservation projects and providing Federal financing for energy conservation projects at schools and hospitals in the Delta Region.

"(c) APPLICATIONS.—(1) Applications of schools or hospitals for grants under this section

shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency, in consultation with the Planning and Development Districts in the Delta Region, and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing institutional conservation programs under this part; provided, however, that the Secretary shall encourage flexible and innovative approaches consistent with this Act.

"(d) SELECTION OF APPLICATIONS.—(1) Not later than six months after the receipt of applications under subsection (c), the Secretary shall select at least seven, but not more than 21, proposals from States to receive grants under subsection (b).

"(2) The Secretary may select more than 21 applications under this subsection, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

"(3) No one State shall receive less than one, or more than four, grants under subsection (b).

"(4) Such grants shall be in addition to such grants as would otherwise be provided under part G of this Act.

"(5) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

"(1) The location of the grant recipient in the Delta Region.

"(2) The demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section.

"(3) The demonstrated or potential ability of the grant applicant to improve energy conservation measures in the designated school or hospital.

"(4) Such other criteria as the Secretary deems appropriate for carrying out the purposes of this section.

"(f) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990, Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.'

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1996, and 1997, and 1998.".

SEC. 305. ENERGY RELATED EDUCATIONAL INITIATIVES.

(a) MINORITY COLLEGE OR UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department or the departmental laboratories with respect to, or in conjunction with, minority colleges or universities in the areas of mathematics, science, and engineering;

(B) describe ongoing research, development, demonstration, or commercial application activities involving the Department or the departmental laboratories and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) identify ways for the Department or the departmental laboratories to assist minority colleges or universities in providing education and training in the fields of mathematics, the sciences, and engineering;

(E) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

(F) address the need for, and potential role of, the Department or the departmental laboratories in providing minority colleges or universities with—

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty development and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer mechanisms;

(G) address the need for, and potential role of, the Department or departmental laboratories in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges and universities; and

(H) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories in order to assist minority colleges or universities in providing education and training in the areas of mathematics, the sciences, and engineering, and in entering into partnerships with the Department or departmental laboratories.

(2) The Secretary shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges and universities directed at jointly planning and developing programs to foster greater involvement of minority colleges and universities in research, education, training, and recruitment activities of the Department.

(b) MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAMS FOR THE DELTA REGION.—The Secretary shall establish a scholarship program for students pursuing undergraduate or graduate degrees in energy-related scientific, mathematical, engineering, and technical disciplines at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study.

(c) PRE-COLLEGE EDUCATION.—The Secretary shall undertake activities to encourage pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for students in the Delta Region. Such activities shall include, but not be limited to the following:

(1) Cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students in energy-related scientific, mathematical, engineering and technical disciplines.

(2) Cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students.

(3) Cooperation with, and assistance to, State departments of education and local school districts in the development and use of curriculum and educational materials in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary students.

(4) The establishment of education programs in subjects relating to energy-related scientific, mathematical, engineering, and technical disciplines for elementary, middle, and secondary school teachers in the Delta Region.

(d) VOLUNTEER PROGRAM.—The Secretary shall carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in education programs relating to energy-related scientific, mathematical, engineering, and technical disciplines, in cooperation with State departments of education and local school districts in the Delta Region.

(e) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences, mathematics, engineering and technical disciplines. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, education assistance programs administered by the Department and by other Federal agencies in the Delta Region. These agencies include, but are not limited to, the Department of the Interior, the Department of Agriculture, the Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 306. INTEGRATED BIOMASS ENERGY SYSTEMS.

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a research, development and demonstration program to determine the economic viability of integrated biomass energy systems within the Delta Region.

(b) PROGRAM PLAN.—Not later than six months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a program plan to guide the activities under this section.

(c) SOLICITATION OF PROPOSALS.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the program plan. Such activities shall include at least three demonstrations of integrated biomass energy systems that—

(1) involve the production of dedicated energy crops of not less than 25,000 acres per demonstration;

(2) include predominately herbaceous energy crops;

(3) include predominately short-rotation woody crops;

(4) demonstrate cost-effective methods of growing, harvesting, storing, transporting, and preparing energy crops for conversion to electricity or transportation fuel; and

(5) result in the conversion of such crops to electricity or transportation fuel by a non-Federal energy producer or the Tennessee Valley Authority.

(d) COST SHARING.—(1) For research, development, and demonstration programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.

(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this section if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1996, 1997, and 1998.

SEC. 307. WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION.

Title IV of the Energy Conservation and Production Act (42 U.S.C. 6851, 6861–6846) is further amended by adding a new section 423 as follows:

"WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION

"SEC. 423. (a) PURPOSE.—The purpose of this section is to encourage the weatherization of low-income dwelling units in the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary shall make grants to (1) States, and (2) in accordance with the provisions of subsection (413)(d), to Indian tribal organizations to serve Native Americans in the Delta Region. Such grants shall be made for the purposes of providing financial assistance for the weatherization of low-income dwelling units.

"(c) APPLICATIONS.—(1) Applications of States or Indian tribal organizations for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State weatherization agency, in consultation with Community Action Agencies and Planning and Development Districts in the Delta Region, and the State weatherization agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants for energy conservation projects shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing weatherization assistance programs under this Part.

"(d) SELECTION OF APPLICATIONS.—(1) The Secretary shall select applications from States to receive grants under subsection (b).

"(2) Such grants shall be in addition to such grants as would otherwise be provided under section 414 of this Act.

"(3) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section in accordance with the requirements of sections 414(b) and 415 of this Act, and on the basis of the following criteria:

"(1) The location of the grant applicant in the Delta Region.

"(2) The demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section.

"(3) The demonstrated or potential ability of the grant applicant to improve energy efficiency in low-income dwelling units.

"(f) COORDINATION WITH OTHER WEATHERIZATION ASSISTANCE PROGRAMS.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, Department weatherization assistance programs under section 413, 414A and 414B of this title.

"(g) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.'

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1996, 1997, and 1998.".

SEC. 308. RENEWABLE ENERGY PRODUCTION INCENTIVES.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by inserting immediately after "foregoing," the following: "by the Tennessee Valley Authority,".

TITLE IV—PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY THE STATE OF HAWAII.

SEC. 401. (a) GENERAL PROVISIONS.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the bid, be entitled to purchase a category of petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering; and

"(ii) submit one or more alternative offers, for other categories of petroleum product, that will be binding in the event that no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(2)(A) In administering this subsection, and with respect to each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) The Secretary may limit the quantity of petroleum product that the State of Hawaii may purchase through a binding offer at any one offering to 1-1/2 of the total quantity of imports of petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) The Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(3) Notwithstanding any limitation imposed under paragraph (2), in administering this subsection, and with respect to each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, adjust the quantity to be sold to the State of Hawaii or an eligible entity certified under paragraph (6), as follows:

"(A) The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than one full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(B) The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(4) The State of Hawaii or an eligible entity may enter into an exchange or a processing agreement that requires delivery to other locations, so long as petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(5) Except as otherwise provided in this Act, the Secretary may require the State of Hawaii and any eligible entity that purchases petroleum product under this subsection to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(6)(A) Notwithstanding the foregoing, and subject to subparagraphs (B) and (C), if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to effectuate the purposes of this Act, such eligible entity may submit a binding offer and receive first preference in scheduling for lifting in accordance with this subsection.

"(B) The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

"(C) If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify such company under the paragraph.

"(7) As used in this subsection—

"(A) the term 'binding offer' means a bid submitted by the State of Hawaii or an eligible entity for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to this Act, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer;

"(B) the term 'category of petroleum' means the master line items within a notice of sale;

"(C) the term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii;

"(D) the term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii or the eligible entity submitting the binding offer;

"(E) the term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale; and

"(F) the term 'notice of sale' means the document that announces—

"(i) the sale of strategic petroleum reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of enactment of this Act or the date that final regulations are promulgated pursuant to section 3, whichever is sooner.

SEC. 402. REGULATIONS.

(a) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out section 2.

(b) PLAN AMENDMENTS.—No amendment of the Strategic Petroleum Reserve Plan or the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required for any action taken under this Act if the Secretary determines that an amendment to the plan is necessary to carry out this section.

(c) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out this Act shall not be subject to—

(1) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(2) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

AMENDMENT NO. 2604

(Purpose: Substitute for title I—Energy Policy and Conservation Act)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. WALLOP, proposes an amendment numbered 2604.

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

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

The amendment is as follows:

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994.

SEC. 102. TABLE OF CONTENTS AMENDMENTS.

Amend the table of contents of the Energy Policy and Conservation Act by,

(1) striking the items relating to sections 153, 155, 158, 164, and 173:

(2) amending the item relating to section 159 to read as follows:

"SEC. 159. Development, operations, and maintenance of the Reserve."; and

(3) striking the items relating to part A of title II.

SEC. 103. AMENDMENTS TO STATEMENT OF PURPOSES.

Section 2 of the Energy Policy and Conservation Act is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, and to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and";

(2) by amending paragraph (3) to read as follows:

"(3) to increase the domestic supply of fossil energy during severe energy supply interruptions."; and

(3) by amending paragraph (6) to read as follows:

"(6) to reduce the demand for petroleum products during severe energy supply interruptions."

SEC. 102. TITLE I AMENDMENTS.

(a) Part B of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6231) is amended—

(1) in section 151 (42 U.S.C. 6231)—

(A) in subsection (a) by striking "limited" and "short term"; and

(B) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.";

(2) in section 152 (42 U.S.C. 6232)—

(A) by striking paragraph (1), and

(B) in paragraph (11) by striking ", the Early Storage Reserve";

(3) by striking section 153 (42 U.S.C. 6233);

(4) in section 154 (42 U.S.C. 6234)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) A Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products shall be created pursuant to this part.";

(B) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.";

(C) by striking subsections (c) and (d); and

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall prepare, and update biennially, a plan for the operation, maintenance and proposed expansion of the Reserve (hereinafter referred to as the SPR Plan). The SPR Plan shall include—

"(A) a description of the facilities that compose the Strategic Petroleum Reserve, including the type and location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve);

"(B) an estimate of the volumes and types of petroleum products stored in each storage facility, including any special characteristics of such petroleum products; and

"(C) an identification of the ownership of the petroleum products stored in the Reserve in any case where such products are not owned by the United States; and

"(D) a description of any changes that have occurred, or are anticipated, in the operation and maintenance of the Reserve, including any plans under consideration or proposed for the upgrading or replacement of existing facilities or the construction of new storage facilities.

"(2) The Secretary shall, by rule, also prepare a Strategic Petroleum Reserve Drawdown and Distribution Plan (hereinafter referred to as the SPR Drawdown Plan). The SPR Drawdown Plan shall set forth policy options applicable to the drawdown and distribution of the Reserve, including the strategy or alternative strategies of drawdown and distribution that will be considered and the criteria that will be employed to select among such strategies. Until such SPR Drawdown Plan is finalized the December 1, 1992 Strategic Petroleum Reserve Drawdown (Amendment Number 4) shall remain in force and effect."

(5) by striking section 155 (42 U.S.C. 6235);

(6) in section 156(b) (42 U.S.C. 6236(b)) by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The";

(7) by amending section 157 (42 U.S.C. 6237)—

(A) in subsection (a), by striking "The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of" and insert "The Secretary shall establish and maintain as part of the Strategic Petroleum Reserve", and

(B) in subsection (b), by striking "To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain" and inserting "The Secretary may establish and maintain as part of the Strategic Petroleum Reserve";

(8) by striking section 158 (42 U.S.C. 6238);

(9) in section 159 (42 U.S.C. 6239)—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

"(1) issue rules, regulation, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve; and

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.";

(C) in subsection (g)—

(i) by striking "implementation" and inserting "development"; and

(ii) by striking "Plan";

(D) by striking subsections (h) and (i); and

(E) by striking subsection (j) from "No later than" through "Amendments of 1990" and inserting in lieu thereof: "When the Secretary determines that, within five years, the Reserve can reasonably be expected to contain an inventory of 750,000,000 barrels,"; and

(F) by amending subsection (l) to read as follows:

"(1) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(10) in section 160 (42 U.S.C. 6240)—

(A) in subsection (a), by striking all before the dash and inserting the following—

"(a) For the purpose of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange";

(B) in subsection (b), by striking the third comma and "including the Early Storage Reserve" and paragraph (2);

(C) by striking subsections (c), (d) and (e);

(11) in section 161 (42 U.S.C. 6241)—

(A) by amending subsection (b) to read as follows:

"(b) Except as provided in subsection (f) and (g), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan prepared pursuant to section 154(e)."

(B) by striking subsection (c).

(C) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program."

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this section."; and

(E) in paragraph (g)—

"(i) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures", and

(ii) by striking paragraphs (2) and (6);

(12) by striking section 164 (42 U.S.C. 6244);

(13) by amending section 165 (42 U.S.C. 6245) to read as follows—

"Sec. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity:

"(B) the types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any conditions affecting physical integrity of any Reserve facility or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a Reserve, a 750 million barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of one billion barrels; and

"(G) a description of the current methods of drawdown and distribution to be utilized; and

"(H) an explanation of any changes made in the matters described in subparagraphs (A) and (G) since the transmittal of the previous report under this section;

"(2) a summary of the action being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) a review of any proposal received from a person, including a State or local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal;

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum reserve and SPR Petroleum Account;

"(7) a summary of the existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part, including any proposal under paragraphs (3) and (4).".

"(14) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "such funds as may be necessary to implement this part.";

(15) in section 167 (42 U.S.C. 6247)—

(A) in subsection (b)—

(i) by inserting "test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,".

(ii) by striking paragraph (1);

(iii) in paragraph (2), by striking "after fiscal year 1982"; and

(B) by amending subsection (e) to read as follows:

"(e) The Impoundment Control Act of 1974 (2 U.S.C. 681–688) applies to funds made available under subsection (b).";

(c) Part C of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6249, et seq.) is amended—

(1) in section 172 (42 U.S.C. 6249a) by striking subsections (a) and (b); and

(2) by striking section 173 (42 U.S.C. 6249b); and

(d) Part D of Title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "1994" each time is appears and inserting "1999".

"SEC. 103 TITLE II AMENDMENTS.

(a) Title II of the Energy Policy and Conservation Act is amended by striking Part A (42 U.S.C. 201 through 204).

(b) Part B of Title II of the Energy Policy and Conservation Act is amended by adding at the end of section 256(h), "There are authorized to be appropriated for fiscal years 1996 through 1999, such sums as may be necessary.".

(c) Part D of Title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "1994" each time it appears and inserting "1999".

SEC. 104. TITLE III AMENDMENTS.

(a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended in section 365(f)) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary."

(b) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended in section 397 (42 U.S.C. 6371f) is amended to read as follows:

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

Mr. JOHNSTON. Mr. President, on July 20, the Committee on Energy and Natural Resources unanimously ordered reported S. 2251, the principal purpose of which is to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and extend the President's basic authorities for dealing with energy emergencies. The authority of the President to maintain, manage and withdraw oil from our Strategic Petroleum Reserve expires on September 30, 1994. In addition, key authorities essential for the United States to meet its obligations under programs of the International Energy Agency also expire on September 30, 1994. We need to extend all of these authorities before Congress adjourns in October. This legislation provides such an extension for a 5-year period.

Congress passed the Energy Policy and Conservation Act [EPCA] in 1975 among other things to establish the Strategic Petroleum Reserve [SPR] and to provide for participation of the United States in the programs of the International Energy Agency [IEA] to mitigate the impact of severe oil supply disruptions on the U.S. economy. The SPR provides a stockpile of oil to protect American consumers against the shock to the economy resulting from a crisis that disrupts foreign oil supplies. There are approximately 580 million barrels of oil currently stored in the SPR, which represents about 20 percent of our projected total imports of petroleum for 1994 and a national investment worth almost $12 billion at current oil prices.

Coordinated efforts with other major petroleum consuming countries through the IEA leverage our investment in the SPR. Continuation of the SPR and IEA programs is in the national economic and security interest.

The committee-reported bill extends the authorization through fiscal year 1999 for the SPR and the U.S. participation in the IEA. The committee also

adopted several administration-proposed amendments to EPCA: To eliminate the linkage between purchases of oil for the SPR and production of oil from the federally owned Elk Hills Naval Petroleum Reserve; to change from a quarterly to annual reporting requirement for the SPR program; and to repeal the requirements that a contract to lease oil for the SPR lie before Congress for 30 days before it becomes effective.

A more complete description of these amendments may be found in the Committee Report (S. Rept. 103–334).

The committee-reported bill also includes an amendment to guarantee the State of Hawaii access to oil from the SPR in the event of a drawdown. This provision, essentially the same as legislation which passed the Senate in 1991, is intended to mitigate the increased vulnerability of Hawaii to supply disruption due to its remote location.

The committee also reported amendments that the Senate has previously adopted to conform the Department of Energy's conflict of interest rules with those of the rest of the Federal Government. Finally, the committee adopted the provisions of S. 991 that would establish programs to be managed by the Department of Energy in the seven-State Lower Mississippi Delta Region as new title III of S. 2251. S. 991 passed the Senate unanimously earlier this year.

The managers of the bill will propose on behalf of the committee that the Senate add to the bill before passage certain amendments affecting programs of the Department of Energy from the bill originally proposed by the administration. These administration amendments extend authorizations for appropriations through fiscal year 1999 for the activities of the interagency working group and working subgroups of the Committee on Renewable Energy, Commerce and Trade [CORECT] and the Committee on Energy Efficiency, Commerce and Trade [COEECT]. CORECT and COEECT are interagency cooperative groups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

The managers amendment will also provide for extension through 1999 of the authorization for appropriations for the Department of Energy's State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals.

Finally, the managers amendment to S. 2251 includes the text of S. 473, the Department of Energy National Competitiveness Technology Partnership Act, which passed the Senate unanimously on November 20, 1993.

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

The amendment (No. 2604) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2605

(Purpose: To promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. JOHNSTON, proposes an amendment numbered 2605.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

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

The amendment (No. 2605) was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 2251), as amended, was passed as follows:

The text of the bill will be printed in a future edition of the RECORD.

OPIC AMENDMENTS ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 617, S. 2438, the OPIC Amendments Act; that the bill be read a third time; that the Foreign Relations Committee be discharged from further consideration of the House companion H.R. 4950, that all after the enacting clause be stricken and the text of S. 2438 be inserted in lieu thereof; the bill read a third time and passed; the motion to reconsider laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

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

The bill (H.R. 4950) was ordered to a third reading, was read the third time, and passed.

The Presiding Officer (Mr. AKAKA) appointed Mr. PELL, Mr. SARBANES, and Mr. HELMS conferees on the part of the Senate.

MEASURE INDEFINITELY POSTPONED—S. 2438

Mr. LEVIN. Mr. President, I now ask unanimous consent that S. 2438 be indefinitely postponed.

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

MEASURE PLACED ON THE CALENDAR—H.R. 5123

Mr. LEVIN. Mr. President, I ask unanimous consent H.R. 5123, the Intrastate Tow and Wrecker Truck Transportation Technical Correction Act of 1994 just received from the House be placed on the calendar.

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

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I submit a report of the committee of conference on (H.R. 4299) and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 27, 1994.)

Mr. LEVIN. Mr. President, I ask unanimous consent the conference report be adopted, the motion to reconsider be laid upon the table, and any statements relating thereto be printed

in the RECORD at the appropriate place as if read.

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

CONFERENCE REPORT ON THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. DECONCINI. Mr. President, it is indeed a pleasure to present this conference report to the Senate. Since this will be the last official act that Senator WARNER and I undertake as Chairman and vice chairman of the Select Committee on Intelligence, it is with a great deal of pride that we are able to bring back to the Senate what I believe is a significant and consequential piece of legislation.

In this regard, I want to take this opportunity to salute our colleagues on the House Permanent Select Committee on Intelligence, particularly Chairman DAN GLICKMAN and the ranking minority member, LARRY COMBEST, for their cooperation and willingness to work with us to produce this far-reaching bill. And I might say, since these two Congressmen also happen to be leaving their leadership positions on the House committee at the end of this Congress, how much I appreciate the fine working relationship we have had with them over the course of the 103d Congress. They have approached their duties with seriousness and enthusiasm, and as a result, have had a very productive tenure.

I also want to take this opportunity to express my appreciation to the senior Senator from Virginia, my friend and colleague, JOHN WARNER, whose good sense and steadying influence has been invaluable to me and the committee over the last 2 years. He has made an enormous and lasting contribution during his 8 years on the Intelligence Committee, and, indeed, his proposal to establish a presidential commission on intelligence, which is included as part of this bill, constitutes, I believe, a lasting legacy from his service here.

In this regard, I also want to mention the part that Senator BOB GRAHAM made in terms of developing the commission proposal and bringing it to fruition. He has been a serious and active member of the Intelligence Committee, and believes, as many of us do, that it is time for a fundamental reassessment of the roles and capabilities of the U.S. intelligence community in the wake of the cold war.

This conference report mandates just such a review, putting everything—organizations, budgets, missions, capabilities, strategies—on the table. It calls for a 17-member commission with 9 members appointed by the President, and 8 members appointed by the congressional leadership in both Houses on both sides of the aisle. It mandates a report to the President and the Congress by March 1, 1996.

The conference report also contains far-reaching provisions to improve the coordination of counterintelligence activities and to enhance the investigative authorities of investigative agencies. My colleagues should appreciate this is in effect the committees' response to the defects we've identified in the handling of the Ames case. While no one would contend that they will put an end to spying, I do believe they will improve our chances of detecting it and prosecuting it successfully.

I also want to mention specifically the provisions of this conference report that bring physical searches done for intelligence purposes within the United States under the court order procedures of the Foreign Intelligence Surveillance Act of 1978. Until now, such searches have been carried out without a warrant pursuant to the approval of the Attorney General. Indeed, such a search was carried out in the Ames case. The committee believed that the constitutionality of these searches was subject to question, and believed from the standpoint of civil liberties that it was preferable to have a Federal judge approve such searches as opposed to the Attorney General. I am delighted to say the Clinton administration strongly supported this legislation and that the Attorney General and Deputy Attorney General played key roles in terms of ensuring its acceptance by the conference committee.

This bill, needless to say, authorizes funding for the intelligence activities of the U.S. Government. While the precise levels are classified and are incorporated in a classified annex to the conference report, suffice it to say, the conference report funds these activities somewhat below last year's levels and below the level requested by the administration. Nonetheless, we believe it will provide an intelligence capability adequate to meet the national security needs of the country.

Finally, Mr. President, I wish simply to acknowledge the work of our fine staff in putting this legislation together: Norman Bradley, staff director; Tim Carlsgaard, deputy staff director; Judy Ansley, minority staff director; Chris Mellon, deputy minority staff director; Kathleen McGee, chief clerk; Britt Snider, general counsel; Mary Sturtevant, budget director; Charlie Battaglia; Steve Cortese; Al Cumming; Pete Dorn; Melvin Dubee; Art Grant; Pat Hanback; Mike Hathaway; Judy Hodgson; Sarah Holmes; Ed Levine; Karen Lydon; Don Mitchell; Ken Myers; Joan Piermarini; Vera Redding; Gary Reese; Randy Schieber; Chris Straub; Tawanda Sullivan; Tracey Summers; Eric Thoemmes; Jim Van Cook; Chip Walgren; Fred Ward; Grayson Winterling; Jim Wolfe; and Sheryl Wood. I know of no other committee which has as talented or as dedicated a staff.

In conclusion, Mr. President, it has been a distinct privilege for me to chair the Select Committee on Intelligence for the last 2 years. I leave with the feeling that while we have accomplished a lot over the last 2 years, there is still much to be done. But I am leaving behind a very capable group of members and staff who I am confident will carry on the important work of this committee.

Mr. D'AMATO. Mr. President, I rise today in support of adoption of the report of the committee of conference on H.R. 4299, the Intelligence Authorization Act for Fiscal Year 1995. This act marks a very significant step forward for this Nation and for the intelligence community, primarily because of its provisions establishing a Commission on the Roles and Capabilities of the United States Intelligence Community and because of the improvements it makes in our counterintelligence structure and statutes.

I want to take this opportunity to speak in support of this bill, which authorizes appropriations for the intelligence community for the coming fiscal year, because I want to make clear my wholehearted support for the professionals who do the work that makes our national intelligence system the best in the world. While budgets are declining, I believe that this bill provides adequate funds to meet this Nation's intelligence needs in the coming year.

I have spoken out concerning what I believe are very important flaws in the way the community is run. I will continue my efforts to correct those flaws. However, I do not want the many thousands of people who labor in necessary anonymity and sometimes in dangerous and difficult circumstances to collect, report, analyze, and disseminate intelligence that is critical to our national security to think that their efforts are not appreciated or will not be supported.

The problems revealed by the Select Committee on Intelligence's public hearing on the National Reconnaissance Office's headquarters complex and in the continued revelations concerning the Aldrich Hazen Ames case are simply indicative of larger problems we are working to fix. While relations between the committee and the Director of Central Intelligence, Mr. R. James Woolsey, have become strained, the problems are not problems of personality conflicts nor do they originate with Director Woolsey's tenure in office.

It would be a mistake for observers to conclude that Director Woolsey is the problem. But by his actions—and inactions—he had become a part of the problem, instead of a part of the solution. I regret that this is the case.

In fact, a member of the committee has publicly called upon Director Woolsey to resign, and upon the President to call for his resignation. I have not gone that far, but I believe that the President should consult with everyone

who has to work with Mr. Woolsey and make a judgment about his future, because I think that very few retain confidence in his leadership.

Mr. Woolsey has a big job to do. If he can do it, he may be able to regain enough confidence to allow him to continue in office. If not, the President should evaluate the impact of his continuation in office upon the national security, the intelligence community, and the Central Intelligence Agency, reach his own conclusions, and act accordingly.

Mr. President, one of the major elements in the present situation is the aftermath of the Ames case. The Inspector General of the Central Intelligence Agency, Mr. Frederick P. Hitz, produced a long, classified report on the case. He also made a statement describing the Ames case and his findings. This statement is unclassified. I ask unanimous consent that his statement be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks, along with two articles from the Friday, September 30, 1994 edition of The New York Times. These articles, both by Tim Weiner, are respectively entitled "C.I.A. Official Tells of Botching of Ames Case," and "Agencies Admit Failure To Tell Senate Enough on Spy Building," both of which were printed on page A24 of the paper.

Taken together, the Hitz statement and the articles will provide anyone reading the CONGRESSIONAL RECORD with a good summary of the public part of the situation that leads me and many of my colleagues to such dramatic conclusions regarding Mr. Woolsey.

Beyond these matters, there is the case involving Jane Doe Thompson, a female case officer who claims she was the subject of gender-based discrimination by the CIA. It is my understanding that she is far from unique among female career employees at the Agency. I look forward to working to resolve the problems of fairness and equality that her case has highlighted.

Finally, I want to praise my colleagues and especially our distinguished chairman and vice chairman for their dedication to making substantial improvements in this Nation's counterintelligence posture. Their efforts have resulted in a truly substantial improvement over the present state of affairs.

As a member of the Select Committee on Intelligence, I am proud to have been a cosponsor of S. 2056, the Counterintelligence and Security Enhancements Act of 1994. Among other things, this bill: First, required creation of a simplified and uniform system to govern access to classified information; second, placed in law the new counterintelligence structure created by Presidential Decision Directive 24, but importantly strengthened this structure by requiring that "the head of each department or agency within the executive branch of Government shall ensure that * * * the Federal Bureau of Investigation is advised immediately of any information, regardless of its source, which indicates that classified information is being, or may have been disclosed in an unauthorized manner to a foreign power of an agent of a foreign power;" third, permitted disclosure of consumer credit reports to the FBI in espionage investigations, but only where "* * * there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought * * *" is a spy; fourth, created authority for the Attorney General to pay rewards for information concerning espionage; fifth, provided for criminal forfeiture of property received for or used to commit espionage; sixth, denied annuities or retired pay to persons convicted in foreign courts of espionage involving U.S. classified information; seventh, provided for a warrant process under the Foreign Intelligence Surveillance Court to govern physical searches within the United States for the purpose of collecting foreign intelligence information; and eighth, made unauthorized removal and retention of classified material a Federal criminal offense.

These provisions were substantially included in H.R. 4299, the Intelligence Authorization Act for Fiscal 1995. I believe they will make a very positive difference in our ability to deter espionage against us and to detect persons committing espionage at the earliest possible stage so that damage to this country can be minimized.

In addition, the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355, contained a provision, section 60003(a)(2), that reinstated the death penalty for espionage provided for in 18 U.S.C. section 794(a). It amended that section, making the death penalty available in cases where a spy's actions resulted in "the identification by a foreign power * * * of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information, or any other major weapons system or major element of defense strategy." This bill became Public Law 103-322.

Mr. President, the Commission on the Roles and Capabilities of the United States Intelligence Community is also important for the future. It will hopefully produce the equivalent of the Defense Department's Bottom-Up Review for the intelligence community. It will help us make certain that the community is going in the right direction in the future—no matter who is leading it. It will also allow us to make smarter policy and budget choices as we try to shape the community to better meet this Nation's future intelligence needs.

Again, in closing, I urge my colleagues to support this bill.

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

[From the New York Times, Sept. 30, 1994]

C.I.A. OFFICIAL TELLS OF BOTCHING OF AMES CASE

(By Tim Weiner)

WASHINGTON, September 29.—Adding new details to the Central Intelligence Agency's self-portrait of ineffectiveness in the case of Aldrich H. Ames, the agency's inspector general testified today that Mr. Ames's drunkenness, rule-flouting and laziness had not been "considered unusual" by his superiors.

The inspector general, Frederick P. Hitz, told a closed session of the Senate Intelligence Committee that for two years the agency all but gave up searching for the traitor it suspected was in its ranks and that it did not focus on Mr. Ames for nearly seven years after be began his betrayals on behalf of Moscow in 1985. Mr. Hitz's remarks were made public today by the C.I.A.

The agency's investigation began in 1986, when the C.I.A.'s spies inside the Soviet Union began disappearing and dying. The secrets that Mr. Ames had sold to the Soviets for more than $2 million led directly to the death of 10 secret agents.

The Federal Bureau of Investigation, whose own agents had seen Mr. Ames visiting the Soviet Embassy in Washington, asked the C.I.A. to investigate in 1986. But the intelligence agency failed to do so, the inspector general said, and the matter was soon forgotten.

"The mole hunt virtually ceased" from 1988 to 1990, and the C.I.A. did not draw up a formal list of suspects until 1991, Mr. Hitz said. "Factors that contributed to this delay," he said, "included the agency's reluctance to believe that one of its own could betray it and a continuing general distaste for the counterespionage function of investigating agency employees."

The C.I.A. missed many opportunities to catch Mr. Ames, Mr. Hitz testified. Those breakdowns, he said, included two botched lie-detector tests, failure for nearly four years to complete a financial inquiry into Mr. Ames's affluence, and a near-total collapse in communications among C.I.A. officers when they did begin to focus on him in 1991.

But the most profound failure was that of the C.I.A.'s top managers, the inspector general concluded.

Mr. Ames had a long history of "no enthusiasm, little regard for rules and requirements, little self-discipline, little security consciousness, little respect for management or the mission, few good work habits, few friends and a bad reputation in terms of integrity, dependability and discretion," Mr. Hitz said. "Yet his managers were content to tolerate his low productivity, clean up after him when he failed, find well-chosen words to praise him and pass him on with accolades to the next manager."

His laziness and frequent drunkenness "were observed by Ames's colleagues and supervisors and were tolerated by many," Mr. Hitz said. That tolerance permitted the C.I.A. to award Mr. Ames a series of promotions to positions "where he was perfectly

placed to betray almost all of C.I.A.'s most sensitive Soviet assets." In retrospect, this managerial indifference is "difficult to justify," the inspector general testified.

Mr. Hitz said suspicions about Mr. Ames finally crystallized at the C.I.A. in August 1992, seven years after his spying for Moscow had begun. Still, the agency did nothing to act upon those suspicions until the F.B.I.'s formal criminal investigation of the case began eight months later.

Operations against the Soviet Union were the C.I.A.'s highest priority in the 1980's, Mr. Hitz testified. The destruction of the agency's network of Soviet spies "should have had a profound effect on the thinking and actions of the leaders of the C.I.A."

But there was no such effect, he concluded. In his final report on the matter, issued this week, Mr. Hitz declined to say why that might have been or who might be to blame.

AGENCIES ADMIT FAILURE TO TELL SENATE ENOUGH ON SPY BUILDING

(By Tim Weiner)

WASHINGTON, September 29.—The National Reconnaissance Office, the secretive Government agency that builds spy satellites, did not intentionally mislead Congress about the cost of its new headquarters, but failed to provide detailed and straightforward information about the building, the Pentagon and the Central Intelligence Agency said today.

The new headquarters, a complex of four buildings outside Washington, was to have cost up to $347 million, according to figures that the Reconnaissance Office provided after protests by the Senate Intelligence Committee this summer. The committee this month ordered that no more than $310 million be spent.

In addition, the statement by the Pentagon and C.I.A. said, the headquarters has room for up to 3,900 people, 1,000 more than originally planned, and its costs could be cut to about $300 million. The statement said a final report on the project will be completed in October.

Roger Marsh, the project manager for the new headquarters, apologized to the Senate committee in August, saying the Reconnaissance Office had been "negligent, clearly negligent, for not showing the budget breakout for this project."

The money for the building was broken up into different secret accounts in the Reconnaissance Office's operating budget, its officials said at the August hearing. Today's statement, while finding no intent to deceive Congress, said the office failed to follow guidelines for presenting secret budgets to the Congressional intelligence committees.

Almost everything about the Reconnaissance Office, whose existence was not officially acknowledged until 1992, is classified more secret than Top Secret. The agency spends, by some estimates, more than $6 billion a year building highly sophisticated spy satellites.

The chairman of the Senate Intelligence Committee, Dennis DeConcini, Democrat of Arizona, and the vice-chairman, John W. Warner, Republican of Virginia, said today that they remain convinced that they were not fully informed about the project, which Senator Warner called "a 'Taj Mahal.' "

Mr. DeConcini said he attributed the Senate's lack of knowledge about the headquarters' cost to "clandestine bookkeeping" by the Reconnaissance Office. "As the smoke continues to clear, I believe the numbers will show that the N.R.O. spent an extra $100 million of taxpayer dollars to insure this complex was a Rolls-Royce and not a Chevrolet," he said.

STATEMENT OF FREDERICK P. HITZ

Mr. Chairman, Mr. Vice-Chairman, Members of the Committee and Staff:

Thank you for the opportunity to discuss our investigation of issues relating to the Agency's handling of the Ames case. The investigation has been an unusual one for the CIA Office of Inspector General. First, our inquiry was requested directly by the Chairman and Vice-Chairman of this Committee in late February 1994—shortly after Aldrich H. Ames and his wife were arrested. Normally, the intelligence oversight committees of the Congress ask the Director of Central Intelligence to request an IG investigation, but on this occasion your request was directed to me. The request underscored the oversight committee's intense interest in this particular investigation.

Second, DCI Woolsey asked us not to delve fully into the Ames matter until some time had passed after Ames's arrest for fear of disrupting the Ames prosecution. Based on the DCI's concern and also that of the Department of Justice and the United States Attorney for the Eastern District of Virginia that we do nothing which would potentially complicate any trial of Ames, we confined ourselves to background file reviews and interviews of non-witnesses until the Ameses pled guilty in April 1994. The consequence was, however, that we had to cover a great deal of ground in a much shorter time in order to have our Report ready for the DCI and our Congressional oversight committees by September 1994. I am extremely proud of our 12-person investigative team. Their efforts are evident in the depth and breadth of the Report.

A third unusual feature was that in March 1994, the DCI asked us to seek to determine whether individuals in Ames's supervisory chain discharged their responsibilities in the manner expected of them. In this regard, the DCI directed the Executive Director of CIA to prepare a list of Ames's supervisors during the relevant periods. The DCI also directed that awards and promotions for the individuals on the Executive Director's list be held in escrow pending the outcome of our investigation. Neither I nor any member of the team investigating the Ames case has viewed the DCI's escrow list. We wanted to be as completely unaffected by the names on the list as we could be in order to discharge our responsibility to advise the DCI objectively of possible disciplinary recommendations. As a precautionary measure, I did ask my Deputy for Inspections, who was otherwise uninvolved in the Ames investigation, to compare our interview list and the escrow list and determine whether any individuals on the escrow list had not been afforded the opportunity to comment on their actions with respect to Ames. That has been our only involvement with the escrow list.

In addition to the unusual circumstances that attended this investigation, it was clear from the outset that the Ames case presented several major substantive issues of the most serious concern to the DCI, our oversight committees and the American people. Thus, we chose not to tell the story in the normal chronological way. Instead, we focused on themes: Ames's life, his career, his vulnerabilities, how he was handled from a management standpoint, and how the system dealt with him. We have also discussed in the context of this particular case how counterespionage investigations have been conducted in CIA since the Edward Lee Howard betrayal and the 1985 Year of the Spy.

At this point, I would like to summarize for the Committee the major findings and conclusions of our investigation. These findings and conclusions were developed after the review of almost forty-five thousand pages of documents, ten years of prior studies, thousands of hours of interviews with over 300 employees and other individuals, painstaking analysis, and countless hours of planning, deliberation and vigorous debate.

The key, inescapable conclusion of our investigation is that the effort to identify the reasons for the loss of virtually all of CIA's human sources reporting on its primary target in the 1980s, the Soviet Union, did not receive the attention that it rightfully deserved. In view of the scope and nature of the losses the Agency suffered, the Agency should have expended every effort and resource necessary to identify the cause. If it had, Ames might have been apprehended sooner and subsequent losses avoided.

Although the damage assessment is still underway, the estimate at this time of the damage attributable to Ames are truly staggering. As stated in our Report, we now know that he provided the Soviets with information on 36 cases in June 1985. Based on his debriefings, Ames now acknowledges providing the Soviets with information on a large number of additional Soviet and East European cases. In addition, Ames disclosed the identities of many Agency employees and non-official cover officers, as well as technical operations, finished intelligence, and Agency planning and policy documents.

PROBLEMS WITH MANAGERIAL ATTENTION AND TIMELINESS OF THE INVESTIGATION

The effort to find the source of the losses, which we have referred to as the molehunt, began in 1986. However, that effort was plagued after 1987 by senior management inattention and failure to apply an appropriate level of resources to the effort until 1991. For an extensive period of time between 1988 and 1990, the molehunt virtually ceased despite information obtained from several Agency components in 1989 that should have focused attention directly on Ames. Factors that contributed to this delay included the Agency's reluctance to believe that one of its own could betray it and a continuing general distaste for the counterespionage function of investigating Agency employees. In 1991, the molehunt effort was rejuvenated, the FBI offered to participate, and the investigation gradually began to show results.

SOVIET CONTACTS

Ames was authorized to engage in contacts with Soviet Embassy officials in Washington in 1984, 1985 and 1986. Agency management failed to monitor his contacts with these officials more closely in 1985 and failed to pursue them adequately after they were requested by the FBI in 1986. This provided Ames with the opportunity to consummate the espionage he contemplated based upon his financial situation and the influence on his thinking that resulted from his prior contacts with Soviet officials in New York. If his failure to submit timely contact reports had been questioned vigorously at the time, Ames might have been told to break off the contacts or been caught in a lie regarding their nature and extent. Ames, albeit not the most trustworthy of witnesses, has said that he would have had a hard time explaining these contacts had questions been raised. If the contacts had been pursued as they should have, appropriate attention might have been drawn to Ames in 1985 or 1986 rather than years later. As it was, Ames ignored the request to report on the contacts and it was soon forgotten.

FINANCIAL INQUIRIES

The inquiry into the Ameses' finances should have been completed much sooner by

CIC than the more than three and one-half years that the inquiry consumed. After it was discovered in 1989 by CIC that Ames had paid for his house in cash and moved large sums of money from abroad to domestic bank accounts, a full financial inquiry should have been undertaken by CIC and the Office of Security on a priority basis. This effort languished despite a December 1990 memorandum from CIC to the Office of Security requesting a reinvestigation of Ames on the basis of his finances and noting his potential link to the 1985–86 compromises. In addition, other available information was not correlated with the financial information.

POLYGRAPHS

The 1986 polygraph of Ames was deficient because the examiner failed to establish the proper relationship with Ames and did not detect Ames's reactions even though Ames says he had great apprehension at the time that he would be found out. The 1991 polygraph sessions were not properly coordinated by CIC with the Office of Security after they were requested. The polygraph examiners in 1991 were not given complete access to the information that had been provided to the Office of Security by CIC in December 1990 regarding Ames's finances and they did not have the benefit of the thorough background investigation that had been completed on Ames on the very day of the first examination session. Once they had developed suspicions about Ames, the responsible CIC officers, especially with their Office of Security backgrounds, should have participated more aggressively and directly in Ames's polygraph. Since the polygraph was handled in a routine fashion, no CI emphasis was placed on formulating the questions or selecting examiners with the appropriate levels of experience. The was no strategy for the questioning and no planning how to handle any admissions he might have made. The result of the 1991 polygraph was to divert attention from him for a time.

PERSONNEL RESOURCES

In view of the number of Soviet sources that were compromised, insufficient personnel resources were devoted to the molehunt effort virtually from the beginning. The failure to request additional resources has been acknowledged by several of the key officials involved. Additional resources could have been used to systematically develop and narrow a list of potential suspects based upon employee access to the compromised cases. Prior to 1991, no formal lists of suspects based on access were created or reviewed. This was partly because access or "bigot" lists for the individual cases did not exist or were inaccurate. Although the investigation clearly had to be conducted with discretion, concerns about compartmentation must be balanced at some point against the overriding need to resolve the serious problems the compromises created. There clearly were more than three trustworthy and capable officers available in the Agency with the necessary expertise to assist in the molehunt effort. With more focused involvement by senior Agency management, additional personnel could have been added to pursue the financial inquiries and create a better mix of analytical and investigative skills.

DIVISION OF RESPONSIBILITY FOR COUNTERINTELLIGENCE

The ambiguous division of responsibility for counterintelligence between CIC and the Office of Security and excessive compartmentation contributed to a breakdown in communication between the two offices, despite the fact that CIC was created in part to overcome such coordination problems. This breakdown in communication had a highly adverse impact on the Ames counterespionage investigation. There was a general absence of collaboration and sharing of information by CIC with the Office of Security at critical points in the reinvestigation of Ames in 1991. Office of Security officers who were assigned to CIC minimized the contribution that could be expected to be received from the Office of Security and their resulting failure to collaborate in fact produced the minimal contribution they expected. These problems and others persisted despite the fact that prior Inspector General inspection reports on Counterintelligence, the Office of Security and Command and Control in the Agency pointed out the jurisdictional and communication ambiguities in counterintelligence matters.

SECURITY REINVESTIGATIONS

The lack of an effective and timely reinvestigation polygraph program in 1985, when Ames began his espionage activities, enhanced the breakdown of inhibitions that Ames had experienced and led him to believe that he would not be required to undergo a reinvestigation polygraph before his contemplated retirement in 1990. By 1985 the Office of Security reinvestigation polygraph program had fallen seriously behind its targeted five-year schedule and Ames had not been polygraphed for almost ten years. Although the Agency gave the program increased attention in 1985 and made a commitment to provide the resources necessary to maintain a five-year reinvestigation schedule, the hiring of new polygraph examiners created other problems, such as the need for increased management and supervision of inexperienced examiners. These problems were compounded by an exaggerated concern about the reaction of Agency officers and managers to adverse results from polygraph examinations. Employee, management and congressional concerns regarding the intrusiveness of the polygraph led Office of Security management to soften the polygraph program and cater to "customer satisfaction," which seems to have meant not offending employees. These developments reduced the effectiveness and reliability of the polygraph program, which must be based upon an apprehension of the consequences of untruths, and encouraged employees and managers to resist the program.

DEFICIENCIES IN PERSONNEL MANAGEMENT

No evidence has been found that any Agency manager or employee knowingly and willfully aided Ames in his espionage activities. Allegations in the so-called "poison fax," sent to the SSCI earlier this year, that the Chief of CE Division from 1989 to 1992 warned Ames regarding Agency suspicions about him appear to be without foundation. Many of the other statements made in the fax also appear to have been unfounded. That said, it is clear from comparing Ames's personnel file with the knowledge about him that was shared orally by employees and managers, that Agency managers consistently failed after 1981 to come to grips with marginal performer who had substantial flaws both personally and professionally. His few contributions to the work of the Agency were exaggerated while his deficiencies and cost to the organization were minimized and not officially documented or formally addressed. He had little focus, few recruitments, no enthusiasm, little regard for rules and requirements, little self-discipline, little security consciousness, little respect for management or the mission, few good work habits, few friends, and a bad reputation in terms of integrity, dependability, and discretion. Yet his managers were content to tolerate his non-productivity, clean up after him when he failed, find well chosen words to praise him, and pass him on with accolades to the next manager.

SUITABILITY FOR ASSIGNMENTS

Despite his deficiencies in performances, Ames continued to be selected for positions that gave him considerable access to highly sensitive information. In the face of the strong and persistent evidence of performance and suitability problems that was available, this access is difficult to justify. Our report reviews most of these assignments in detail. While Ames's poor performance would probably not have led to termination of his employment, it did not justify permitting him to fill positions where he was perfectly placed to betray almost all of CIA's sensitive Soviet assets. Despite doubts about his performance and suitability among officials who previously supervised him, he was placed in positions that gave him access to the most sensitive Soviet sources. After a disastrous tour in Mexico, Ames was placed in charge of a counterintelligence unit that was responsible for Soviet operations, and it was there that he acquired much of the information he turned over to the KGB in 1985.

Ames was selectied to participate in debriefings of Vitaliy Yurchenko, described by the Associate Deputy Director for Operations at the time as the most important defector in CIA's history. Little in his previous performance merited that selection and the task should have been reserved for the very best SE Division had to offer. His assignment to a sensitive position in SE Division after his return to Headquarters in the Fall of 1989 from Rome is inexplicable in light of the reservations about him that were held by the departing Chief of SE Division who had considered Ames's Rome assignment as a means of getting rid of a problem employee.

Ames's selection in October 1990 to serve in CIC is hard to explain given the knowledge that was then available to SE Division's management and CIC regarding the 1985–86 compromises, Ames's work habits, his unexplained affluence, and the nature and scope of the access to information that he would have. His CIC managers had been warned that there was reason to watch him closely and certainly could have sought more specific information from their superiors in CIC. Once suspicions concerning Ames had crystallized in August 1992 when his bank deposits and contacts with the Soviets had been correlated and Agency management had been advised, he should have been place in a position where his access would have been limited and his activities closely managed. No evidence was found that senior Agency managers were fully advised or that such alternatives were ever discussed by Agency management, and neither CIC nor the Office of Security played any role in decisions regarding his assignments until after the FBI investigation began in the spring of 1993.

Necessarily, we have made analytical judgments about what we have learned—some of them quite harsh. We believe this is our job—not just to present the facts, but to tell the DCI, our oversight committees and other readers how our findings strike us. We have the confidence to do this because we have lived with the guts of Ames's betrayal for countless hours, we know the information we have developed better than anyone else at this point, and it is our responsibility to

make these judgments. In this sense, our 12 investigators are like a jury—they find the facts and make recommendations to the DCI for his final determination. And the investigative team and I, like a jury, represent the peers of the intelligence professionals from whose ranks we are drawn. We have been sometimes shocked and dismayed at what we have learned, intrigued by the complexity of the Ames story and appreciative of the individual acts of competence and courage, of which there are many outlined in our Report.

In this latter regard, several individuals deserve special praise: the Deputy Chief, CIC for his persistent efforts to get to the bottom of the matter despite the passage of time; three CIC members for their work that paved the way for identifying Ames as a spy; four employees and managers who made known their concerns about aspects of Ames's wealth, suitability and performance; and finally, the officer who conducted a timely and thorough background investigation of Ames in 1991 and the Deputy Chief, Counternarcotics Center and another officer who provided substantial assistance to the FBI in the FBI phase of the investigation.

In the end, however, the Ames case is about accountability, both individual and managerial. The DCI and our oversight committees have made this the issue, but if they had not, we would have. In this regard, let me note that we had already assembled a small team to look into the Ames case on our own prior to any request from the SSCI or the DCI. We did so because we believed that the statute setting up our office required it. The issue of managerial accountability has been one of my office's principal points of focus since its inception in 1990—and we have enjoyed mixed success in our efforts to assist in bringing it about.

Fixing managerial accountability in the Ames case has not been an easy task. On the individual level, we have uncovered a vast quantity of information about Ames' professional sloppiness, his failure to file accountings, contact reports, and requests for foreign travel. Ames was oblivious to issues of personal security—he carried incriminating documents in his checked airline luggage; he left classified files on a subway train; he openly walked into a Soviet compound in Rome and the Soviet Embassy in Washington. We have noted that Ames's abuse of alcohol, while not constant throughout his career, was chronic and interfered with the performance of his duties. By and large, these deficiencies were observed by Ames's colleagues and supervisors and were tolerated by many who did not consider them highly unusual for Directorate of Operations officers on the "not going anywhere" promotion track. That an officer with these observed vulnerabilities should have been placed in positions involving counterintelligence and Soviet operations where he was in a prime position to contact Soviet officials and thus massively betray his trust is difficult to justify. The IG investigative team has found fault with management's tolerant view of Ames's professional deficiencies and the random indifference given to his assignments, and our recommendations reflect that view. We have not made these recommendations, which are primarily systemic and institutional in nature, a formal part of our Report, but have given them to the DCI in an advisory capacity.

In inclusion, on the grander scale of how the Agency's reaction to the unprecedented loss of Soviet cases in 1985–86 was managed, our team has been strict and demanding. The pivotal point of our logic is that, if Soviet operations—the effort to achieve human penetrations of the USSR for foreign intelligence and counterintelligence information—were the priority mission of the clandestine service of CIA in 1985–86, then the rapid loss of most of our assets in this crucial area should have had a profound effect on the thinking and actions of the leaders of the Directorate of Operations and CIA. The effort to probe the reasons for these losses should have been of the most vital importance to U.S. intelligence and should have been pursued with the utmost vigor and all necessary resources until an explanation—a technical or human penetration—was found. In this investigation we have concluded that the intelligence losses of 1985–86 were not pursued to the fullest extent of CIA's capabilities, and our findings, analytical judgments and recommendations reflect that conclusion.

Thank you Mr. Chairman. I will be glad to try to answer any questions you or other Members of the Committee may have.

Mr. WARNER. Mr. President, I join the chairman of the Intelligence Committee in strongly recommending that the Senate adopt the conference report on the fiscal year 1995 Intelligence authorization bill.

While I would have preferred, and supported, a higher funding level for intelligence activities, I believe that the conference report dollar amount strikes a responsible compromise. The conference agreement contains a reduction of only $340 million from the administration's request; but it provides funding, in excess of the request, in four key areas for which I sought higher funding:

First and foremost, intelligence support to U.S. military operations;

Second, efforts to improve our counterintelligence capabilities;

Third, activities to reduce the critical problem of proliferation of weapons of mass destruction; and

Finally, advanced R&D initiatives which will help keep our intelligence capabilities on the cutting edge.

Several months ago, General Clapper appeared before the Senate Intelligence Committee and revealed that there are currently 64 hot spots in the world today—areas where there exists extensive fighting, human rights violations, and tragic death. That is double the number from just 7 years ago. We are today confronted with a world that is rife with ethnic, religious, and racial conflict—witness the problems in Haiti, Bosnia, Somalia, and Rwanda.

Such a world presents the intelligence community with new diverse, and complex challenges. Maintaining a viable intelligence capability in a rapidly changing world is not an easy—or inexpensive—task. And it is a time-honored principle that intelligence is a force multipler, especially as defense expenditures decline. Therefore, I will continue to resist further reductions in the intelligence budget until I am convinced that efficiencies can be achieved that will not harm U.S. National security.

In addition to authorizing the resources and activities of the intelligence agencies, this measure contains landmark legislation that will enhance the security of the United States for many years to come.

Every Senator, indeed all Americans, are shocked by the tragic case of Aldrich Ames. We are shocked not only by the magnitude of Ames' treachery, which cost many lives, but also by the fact that it took so long for the CIA to catch a sloppy spy, who made little effort to conceal his ill-gotten gains. That he went undetected for 9 years, despite the fact that there were numerous warning signs pointing to Ames' betrayal, indicates that we need more than minor counterintelligence reforms at the CIA, we need new attitudes and procedures—in effect, cultural changes.

Unfortunately, many of the problems that the Ames case has uncovered do not lend themselves to legislative solutions. They require strong leadership and internal reforms at the CIA. However, a number of critical problems were revealed by the Ames case that do require legislative remedies.

Shortly after the Ames case came to light in February, I joined with Chairman DECONCINI, who, to his credit, has worked relentlessly on this legislation against considerable opposition from the administration, in introducing legislation to improve the counterintelligence and security posture of the U.S. intelligence community. Our legislation—which was incorporated in the pending conference report—provides valuable tools for deterring espionage activities and detecting violations when deterrence fails.

Unlike the spies of the 1940's, 1950's, and 1960's who were primarily motivated by ideology, today's turncoats betray this great Nation for money. With this in mind, the DeConcini-Warner bill focuses on the financial activities of employees with access to classified information.

The legislation requires all employees who are granted a security clearance to consent—in writing—to Government access to their financial and travel records. In addition, those employees with access to particularly sensitive information would be required to file financial disclosure reports. We leave it to the President's discretion to determine which categories of employees would be required to file such financial disclosure forms, and how often those forms would have to be filed.

I know some have voiced concern about this legislation due to concerns about the right to privacy of the Government employees who would be affected. I believe that Government employees who are trusted with the Nation's most vital intelligence information must be willing to accept certain personal disclosures as a condition of employment. It is an issue that balances national security interests

against one's rights to personal privacy.

In an area as sensitive and critical as the Nation's security, the scales must tip in favor of protecting our Nation's secrets. Our legislation achieves that goal.

Another issue we addressed in our counterintelligence legislation was the long-standing—and clearly documented—problem of lack of cooperation, over many years, between the CIA and the FBI in espionage cases. Our solutions engendered a great deal of controversy in the Senate, and outright opposition from the administration. Understandably, the executive branch believed the general doctrine of executive prerogative should control.

The lack of effective cooperation between the CIA and FBI is not a new problem. This is an issue that has come before the Intelligence Committee in years past, and it is one that the CIA, for example, assured the committee—in 1986—had been resolved. Unfortunately, we find now that that was not the case then or now. This lack of cooperation has continued to lessen the effectiveness of espionage investigation, and contributed to delays of several years in making a legal case against Aldrich Ames.

The administration believed that they could fix this problem with a new executive order—despite the fact that there have been no less than 10 such good faith attempts since 1947 to find a solution. We believed that legislation was necessary, convinced the conference, and now this will go to the President.

Our bill establishes a mandatory requirement for all agencies and departments to immediately notify the FBI when they have reason to believe that classified information has been compromised. In turn, we place a reciprocal requirement on the FBI to consult with affected departments and agencies during the course of espionage investigations. While Director Woolsey vigorously opposed a legislative solution, he did make important suggestions, as did Senator WARNER, in the final draft.

From this point forward we expect the FBI to be alerted to possible espionage cases at the very outset so that their investigative expertise can be brought to bear at the earliest opportunity.

The Ames case prompted me to pursue the need for an independent, objective, top to bottom review of the roles and capabilities of the intelligence community in the post-cold-war world.

As far back as May, I sent a letter to President Clinton proposing such a Presidential commission to examine the roles and missions of our intelligence agencies, particularly the CIA. At the time I first raised the idea of a commission, there was widespread opposition, both from the administration and my Senate colleagues.

It has been a long uphill struggle, but gradually the idea of a commission for the intelligence community gained support in the Congress. When the Intelligence authorization bill came to the Senate floor in August, my commission amendment passed 99–0. I am pleased to report that despite continuing administration opposition, the conference report before you does indeed contain the Warner amendment on a Presidential commission. I want to acknowledge the strong support I received from Senator GRAHAM, who made valuable additions, and to Chairman DECONCINI.

The commission established by this measure will consist of 17 members—9 appointed by the President and 8 by the congressional leadership. In order to ensure objectivity, the staff of the commission will be drawn almost entirely from outside of the intelligence community.

The commission will have a broad mandate to examine the activities and capabilities of the intelligence community—the legislation lists 19 specific areas for review. The commission is to make its final report to the Congress no later than March 1, 1996. I believe that a truly independent and objective assessment by this commission will validate the need for intelligence activities to support senior policymakers and the U.S. military. At the same time, the commission may well recommend changes in priorities, organization, or the allocation of resources. It is my hope, however, that at the end of the process, the public will have renewed confidence that the activities and funding levels of the intelligence community merit this support in this ever changing world. It is not becoming a safer place.

In closing, I would like to pay tribute to my co-chairman, Senator DECONCINI, who has made an important contribution to the security of this country with this legislation. He and I have worked together from the beginning, and never once did partisanship interfere. We consulted closely, as two Americans with the best interests of their country at heart, and I am very proud of the result.

I would also like to thank our excellent professional staff, Judy Ansley, Chris Mellon, Norm Bradley, Tim Carlsgaard, Britt Snider, Mary Sturtevant, Pat Hanback, and others, for their tireless work on this legislation. They made vital contributions to this process and we are fortunate to have them on the committee staff.

The conference report was agreed to.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 616, S. 1225, a bill to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Boarder Health Commission.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2606

(Purpose: To provide for a substitute amendment)

Mr. LEVIN. Mr. President, I send a substitute amendment to the desk on behalf of Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. BINGAMAN, for himself, Mr. MCCAIN, Mr. SIMON, and Mrs. HUTCHISON, proposes an amendment numbered 2606.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individual who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues. If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

Mr. BINGAMAN. Mr. President, I am pleased that the Senate is taking action on S. 1225, the United States-Mexico Border Health Commission Act, which I introduced last year. Joining me as cosponsors of this bipartisan effort are the distinguished Senators from Arizona, Illinois, and Texas, Senators MCCAIN, SIMON, and HUTCHISON. We have had the pleasure of working on this initiative with our colleagues in the House, the chairman of the House Border Caucus, Representative COLEMAN, and the members of the House Border Caucus.

Through this legislation, we can begin to lay the foundation for effectively addressing the serious and far-reaching border health challenges that face our Nation and the Republic of Mexico. Although this issue is particularly important to those of us living in the border region, it is an issue that should be of tremendous concern to all of us. Developing solutions will require that we work together, in a bipartisan and binational manner, toward common goals.

Before discussing this legislation, I first want to commend the House Border Caucus, the American Medical Association, and the Texas Medical Association in particular for their efforts to increase awareness nationally about border health issues. Their commitment to develop long-term solutions to the many border health problems we face has been the key to our legislative success.

Mr. President, I was born a short distance from the United States-Mexico border, and I grew up in a small New Mexico town less than 90 miles north of the border. My father still lives there—in Silver City—today. Over the years, I have seen the border area change and grow. I have seen the problems firsthand, and I know we face an enormous task. I also know that our task will grow in urgency and importance as the United States and Mexico continue to open their borders and increase international trade and development. That is why I have been committed to the enactment of the United States-Mexico Border Health Commission Act.

In October 1991, the Texas Medical Association hosted a Border Health Conference in McAllen, TX, which members of my staff attended. The idea for the legislation being acted upon today was born at that conference. In McAllen, a commitment was made by the medical societies of the border States—Texas, New Mexico, Arizona, and California—to draft legislation that would lay the groundwork for a high-level, binational Commission which would encourage coordination to protect the health and well-being of the residents of both countries. The Commission's key duty would be to develop a comprehensive, long-term plan of action. The plan would include goals, priorities, and methods for measuring and reaching those goals.

My home State of New Mexico was still in its infancy with respect to border health problems and border awareness in 1991, but we knew it was time for action. We knew we needed to develop strategies for dealing with the future. We knew that if we acted quickly and rationally, our State could avoid many of the environmental and health problems that already threatened our neighboring border States.

New Mexico—like the other border States—has grown and changed since the McAllen conference. Today, the need for this legislation and the binational Commission is greater than ever.

In New Mexico, the border region is one of the State's fastest growing areas. Dona Ana County, which is our State's most populous border county, grew by 40 percent between 1980 and 1990. It is projected to grow by another 30 percent before the year 2000. But despite this rapid growth, or perhaps because of it, New Mexico's border region is one of the poorest areas of the United States. Dona Ana County has been ranked as the 10th poorest county in the Nation, in terms of per capita income. Of the county's total population, 56 percent are Hispanic. More than one-third of them live below the poverty line.

Las Cruces, the county's largest city and the State's third largest, ranks as the fifth poorest city in the Nation in terms of per capita income. The average per capita income is less than $9,500 in Las Cruces, with children under the age of 18 making up 30 percent of the population.

These statistics alone would force tremendous stress on the health care infrastructure of any region. But the residents of Las Cruces, Dona Ana County, and the rest of New Mexico face another serious challenge: They,

along with the people of Texas, Arizona, and California, are on the frontline of our country's environmental and health problems.

Already, the over-developed environments of the Texas, Arizona, and California borders have been seriously degraded by water and air pollution from unregulated industries, widespread lack of sanitation facilities, toxic waste and other ground contaminants, and rapidly growing populations. Today, the threats these hazards pose are spreading. No longer are these problems exclusive to a geographic region or a State. Disease and death do not know political boundaries. They threaten all of us, Americans and Mexicans alike.

With this legislation, we have the opportunity to assess our border problems in the proper framework. We also have the opportunity in New Mexico to create a model for developing comprehensive solutions to these serious binational problems.

The Commission we are advocating, composed of officials and experts from the United States and Mexico, will develop a workable binational plan of action. It should be a long-term plan, with clear goals and mechanisms for measuring progress. To further explain the Commission and its duties to my colleagues, I ask that a summary of the bill be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. BINGAMAN. We have a lot of work ahead of us, Mr. President, but together, with a common plan and common goals, I am confident we can improve the quality of life for our border residents and for all the people of the United States and Mexico.

EXHIBIT 1

SUMMARY: UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

The bill authorizes and encourages the President to enter into an agreement with Mexico to establish a Binational Commission on Border health. The Commission will:

(1) conduct a needs assessment to identify, evaluate, prevent, and resolve health problems affecting the border population of both countries;

(2) develop and implement an "action plan" for carrying out the activities recommended by the needs assessment, through:

(a) helping to coordinate and implement public-private efforts to prevent and resolve border health problems;

(b) helping to coordinate and implement public-private, culturally-competent border health education efforts; and

(3) develop a reasonable method, to be recommended to the governments of both countries, by which one government could reimburse a provider (public or private) for providing health care to a resident of the other country.

The Commission would be authorized to:

(1) conduct and support investigations, research, and studies that will identify, study, and monitor border health problems;

(2) conduct and support a binational, public-private health data collection and monitoring system for the U.S.-Mexico border area; and

(3) provide financial and technical assistance to public and private efforts aimed at addressing border health problems.

Details of the U.S. section of the Commission are:

(1) 13 members: including the Secretary of Health and Human Services; the four commissioners of health for the U.S.-Mexico border states; two individuals residing in the border area in each of the four border states who have demonstrated interest or expertise in border health issues.

(2) Regional offices: the Commission should designate or establish one border health office in each of the four border states to facilitate its work. These offices should be coordinated with state border health offices and local nonprofit organizations.

(3) Annual Reports: the Commission will report annually on its activities to the governments of both countries.

(4) For purposes of the Commission, the border area will be defined as the areas located in the U.S. and Mexico within 100 kilometers of the U.S.-Mexico border.

Mrs. HUTCHISON. Mr. President, I rise today in support of the Border Health Commission Act. I join my colleagues along the border to emphasize the growing health concerns along the United States-Mexico border. The Border Health Commission Act will address these problems in cooperation with our neighbors in Mexico.

The president of the American Medical Association has called public health conditions along the United States-Mexico border a "ticking time bomb." A binational effort to combat what have been termed "biblical plagues" which flourish there is long overdue.

In terms of public health, the border region is a Third World country. According to the Texas Medical Association, its residents suffer from a higher rate of deadly, infectious diseases than anywhere else in the Nation—diseases such as tuberculosis, hepatitis, gastrointestinal ailments, typhus, and cholera.

According to Dr. Miguel Escobedo of the El Paso County Health District, the incidence of tuberculosis in border cities is twice the national average. In El Paso, the TB rate is 20 persons per 100,000 residents; in communities such as Denver and Cincinnati, it is 7 per 100,000. Moreover, Dr. Escobedo says, we are importing drug-resitant strains of the disease from Mexico—which has a direct impact on a border community's ability to provide treatment to all of those entitled to it.

Public health organizations spend $1,200 to treat an uncomplicated case of TB. The complications involved in treating drug-resistant strains drives up that cost to $200,000, he says.

Several other common border diseases are directly attributable to the lack of amenities most people in this country take for granted—clean water, sewage disposal, and electricity. A burgeoning population on both sides of the border has caused what Dr. Laurance Nickey, director of the El Paso County Health District, has called an infrastructure breakdown.

In the El Paso area alone, nearly 200,000 people live in 300 colonias built on often illegally subdivided land. Their residents live amid uncontrolled sewage disposal and shallow wells, a source of contaminated drinking water. As a result, 30 percent of residents tested show evidence of hepatitis A infection.

Public health officials have long been aware that these conditions—in a setting which straddles two sovereign nations—must be addressed through a binational effort. Among the United States and Mexico, alone, there are 400 million border crossings annually. Establishing the United States-Mexico Border Commission would allow health officials of both countries to cooperate in tracking, preventing, and working to cure communicable diseases—as well as cope with other health issues unique to their border setting.

The commission would also serve as an early warning system for the rest of the country, detecting and perhaps preventing major outbreaks of infectious disease—such as cholera and salmonella—which already are spreading beyond the border.

As an international authority, this commission will be equipped as no other to devise a coordinated strategy to implement badly needed public health care solutions. Communicable diseases don't recognize international boundaries. The need for this legislation is immediate and imminent. Dr. Nickey recently expressed to our colleagues that if we do not address these issues soon, they may escalate to a point such that we cannot capture them.

Mr. LEVIN. Mr. President, I ask unanimous consent that the amendment be agreed to; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

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

So the bill (S. 1225) was deemed read the third time and passed, as amended.

(The text of the bill will be printed in a future edition of the RECORD.)

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of calendar No. 683, S. 2372, a bill to reauthorize for 3 years the Commission on Civil Rights.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2607

(Purpose: To strike the matter relating to investigatory and other duties)

Mr. LEVIN. Mr. President, on behalf of Senator SIMON, I now 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 Michigan [Mr. LEVIN], for Mr. SIMON, proposes an amendment numbered 2607.

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

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

The amendment is as follows:

On page 1, strike line 6 and all that follows through page 2, line 15.

On page 2, line 16, strike "3" and insert "2".

On page 3, line 1, strike "4" and insert "3".

Mr. LEVIN. Mr. President, I ask unanimous consent that the amendment be agreed to; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if read.

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

So the bill (S. 2372) was deemed read the third time and passed, as amended.

(The text of the bill will be printed in a future edition of the RECORD.)

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1994—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report accompanying H.R. 6.

The PRESIDING OFFICER. Without objection, it is so ordered. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1994.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE EXECUTIVE ORDER TO RESTRICT THE PARTICIPATION BY U.S. PERSONS IN WEAPONS PROLIFERATION ACTIVITIES—MESSAGE FROM THE PRESIDENT—PM 148

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby report to the Congress that I have exercised my statutory authority to declare a national emergency and to issue an Executive order, which authorizes and directs the Secretary of Commerce, in consultation with the Secretary of State, to take such actions, including the promulgation of rules, regulations, and amendments thereto, and to employ such powers granted to the President by the International Emergency Economic Powers Act, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities which could contribute to the proliferation of nuclear, chemical, and biological weapons, and the means of their delivery.

These actions are necessary in view of the danger posed to the national security, foreign policy, and economy of the United States by the continued proliferation of nuclear, biological, and chemical weapons, and of the means of delivering such weapons, and in view of the need for more effective controls on activities sustaining such proliferation. In the absence of these actions, the participation of United States persons in activities contrary to U.S. nonproliferation objectives and policies, and which may not be adequately controlled, could take place without effective control, posing an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

The countries and regions affected by this action would include those currently identified in Supplements to Part 778 of Title 15 of the Code of Federal Regulations, concerning nonproliferation controls, as well as such other countries as may be of concern from time to time due to their involvement in the proliferation of weapons of mass destruction, or due to the risk of their being points of diversion to proliferation activities.

It is my intention to review the appropriateness of proposing legislation to provide standing authority for these controls, and thereafter to terminate the Executive order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 29, 1994.*

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH HAITI—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Haitian emergency is to continue in effect beyond October 4, 1994, to the *Federal Register* for publication.

Resolution of the crisis between the United States and Haiti is in sight as a result of the September 18 agreement reached in Port-au-Prince by the delegation led by former President Carter. Pursuant to that agreement I have announced that all unilateral United States sanctions against Haiti will be suspended with the exception of the blocking of the assets of any persons subject to the blocking provisions of Executive Orders Nos. 12775, 12779, 12853, 12872, or 12914 and Haitian citizens who are members of the immediate family of any such person as identified by the Secretary of the Treasury.

At the same time, the United Nations Security Council, with our support, has decided that the sanctions established in Resolutions 841 and 917 should remain in force, consistent with the provisions of Resolutions 917 and 940, until the military leaders in Haiti relinquish

power and President Aristide returns to Haiti. That may well not occur before October 4, 1994. Therefore, I have determined that it is necessary to retain the authority to apply economic sanctions to ensure the restoration and security of the democratically elected Government of Haiti.

While the United Nations Security Council sanctions remain in force and in order to enable the multinational forces to carry out their mission and to promote the betterment of the Haitian people in the interval until President Aristide's return, I have directed that steps be taken in accordance with Resolutions 917 and 940 to permit supplies and services to flow to Haiti to restore health care, water and electrical services, to provide construction materials for humanitarian programs, and to allow the shipment of communications, agricultural, and educational materials. This will allow the Haitian people to begin the process of reconciliation and rebuilding without delay.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1994.*

MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4196. An act to ensure that timber-dependent communities adversely affected by the Forest Plan for a Sustainable Economy and a Sustainable Environment qualify for loans and grants from the Rural Development Administration.

H.R. 4379. An act to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

H.R. 4683. An act to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes.

H.R. 5065. An act to amend the Consolidated Farm and Rural Development Act to make technical corrections to certain provisions relating to beginning farmers and ranchers.

H.R. 5123. An act to make a technical correction to an Act preempting State economic regulation of motor carriers.

The message also announced that the House insists upon its amendment to the bill (S. 1887) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. MINETA, Mr. OBERSTAR, Mr. RAHALL, Mr. SHUSTER, and Mr. PETRI as the managers of the conference on the part of the House.

ENROLLED BILL SIGNED

At 1:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4556. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 3:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes.

At 5:41 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 joint resolutions, each without amendment:

S.J. Res. 157. Joint resolution to designate 1994 as "The Year of Gospel Music."

S.J. Res. 185. Joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

S.J. Res. 198. Joint resolution designating 1995 as the "Year of the Grandparent."

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 995. An act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

H.R. 4649. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

S. 1587. An act to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4926. An act to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to U.S. banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications and notices by foreign banks and other persons of a foreign country.

H.J. Res. 326. Joint resolution designating January 16, 1995, as "National Good Teen Day."

H.J. Res. 389. Joint resolution to designate the second Sunday in October of 1994 as "National Children's Day."

H.J. Res. 398. Joint resolution to establish the fourth Sunday of July as "Parents' Day."

H.J. Res. 401. Joint resolution designating the months of March 1995 and March 1996 as "Irish-American Heritage Month."

H.J. Res. 415. Joint resolution designating the week beginning October 16, 1994, as "National Penny Charity Week."

At 6:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S. Res. 135. Joint resolution designating the week beginning October 25, 1993, as "World Population Awareness Day."

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed by the President pro tempore (Mr. BYRD):

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

H.R. 4539. An act 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, 1995, and for other purposes.

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read twice and ordered placed on the calendar:

H.R. 5123. An act to make a technical correction to an act preempting State economic regulation of motor carriers.

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–3369. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the Altus Air Force Base, Oklahoma; to the Committee on Armed Services.

EC–3370. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the Randolph Air Force Base, Texas; to the Committee on Armed Services.

EC–3371. A communication from the Office of Technology Assessment, transmitting, pursuant to law, the report entitled "Civilian Satellite Remote Sensing: A Strategic Approach"; to the Committee on Commerce, Science, and Transportation.

EC–3372. A communication from the Office of Technology Assessment, transmitting, pursuant to law, the report entitled "Remotely Sensed Data: Technology, Management, and Markets"; to the Committee on Commerce, Science, and Transportation.

EC–3373. A communication from the Deputy Associate Director for Compliance, Minerals Management Service (Royalty Management Program), Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–3374. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation approving the location of a Thomas Paine Memorial; to the Committee on Energy and Natural Resources.

EC–3375. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of informational copies of lease prospectuses; to the Committee on Environment and Public Works.

EC–3376. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of informational copies of lease prospectuses; to the Committee on Environment and Public Works.

EC–3377. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the taxation of Social Security and Railroad Retirement Benefits for calendar year 1991; to the Committee on Finance.

EC–3378. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a determination relative to the United Nations Voluntary Fund for Victims of Torture; to the Committee on Foreign Relations.

EC–3379. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements, other than treaties; to the Committee on Foreign Relations.

EC–3380. A communication from the Secretary of Education, transmitting, pursuant to law, the report on vocational education data; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2297. A bill to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes (Rept. No. 103–388).

By Mr. MOYNIHAN, from the Committee on Finance, with an amendment:

S. 1834. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes (Rept. No. 103–389).

By Mr. DECONCINI, from the Select Committee on Intelligence:

Special Report entitled: "U.S. Capability To Monitor Compliance With the Chemical Weapons Convention (Rept. No. 103–390).

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2257. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes (Rept. No. 103–391).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 560. A bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes (Rept. No. 103–392).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2174. A bill to provide for the administration of the Hawaiian Homes Commission Act, 1920, and for other purposes (Rept. No. 103–393).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 855. A bill to authorize the Secretary of the Interior to consolidate the surface and substance estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2424. A bill to expand the boundaries of the Stones River National Battlefield in Tennessee, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Harvey G. Ryland, of Florida, to be Deputy Director of the Federal Emergency Management Agency.

Alice M. Rivlin, of the District of Columbia, to be Director of the Office of Management and Budget.

(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.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102–40 Headquarters Agreement with the Organization of American States (Exec. Rept. 103–37)

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. FORD:

S. 2481. A bill to provide for the appointment of one additional Federal district judge for the western district of Kentucky, and for other purposes; to the Committee on the Judiciary.

By Mr. WOFFORD:

S. 2482. A bill to provide for the restoration of Washington Square in Philadelphia, PA, and for the inclusion of Washington Square within Independence National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mr. HEFLIN):

S. 2483. A bill to amend the Small Business Act, and for other purposes; to the Committee on Small Business.

By Mr. ROBB:

S. 2484. A bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962; to the Committee on Armed Services.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2485. A bill to amend the Federal Aviation Administration Authorization Act of 1994 to delay the effective date of trucking deregulation for 1 year; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mr. CHAFEE):

S. 2486. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals, to increase the taxes on tobacco products, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN) (by request):

S. 2487. A bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

By Mr. DECONCINI:

S. 2488. To amend chapter 11 of title 35, United States Code, to provide for early publication of patent applications, to amend chapter 14 of such title to provide provisional rights for the period of time between early publication and patent grant, and to amend chapter 10 of such title to provide a prior art effect for published applications; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. CAMPBELL, Mr. CHAFEE, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. INOUYE, Mr. JEFFORDS, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LIEBERMAN, Mr. MACK, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WELLSTONE, and Mr. WOFFORD):

S. 2489. A bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 2490. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN:

S. 2491. A bill to amend the Defense Authorization Amendments and Defense Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 to improve the base closure process, and for other purposes; to the Committee on Armed Services.

By Mr. CONRAD (for himself, Mr. SIMON, Mr. FEINGOLD, Mr. HARKIN, and Mr. DORGAN):

S.J. Res. 226. A joint resolution providing for the temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees; to the Committee on Labor and Human Resources.

By Mr. FORD (for himself and Mr. STEVENS):

S.J. Res. 227. A joint resolution to approve the location of a Thomas Paine Memorial; considered and passed.

By Mr. SARBANES (for himself and Mr. BRYAN):

S.J. Res. 228. A joint resolution designating October 29, 1994, as "National Firefighters Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON:

S. Con. Res. 75. A concurrent resolution expressing the sense of the Congress regarding the commonwealth option presented in the Puerto Rican plebiscite of November 14, 1993; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FORD:

S. 2481. A bill to provide for the appointment of one additional Federal district judge for the western district of Kentucky, and for other purposes; to the Committee on the Judiciary.

THE KENTUCKY JUDGESHIP ACT OF 1994

Mr. FORD. Mr. President, I rise today to introduce legislation to correct a longstanding problem in my State of Kentucky. There is an old expression that goes, "justice delayed is justice denied." Well many in Kentucky are being denied justice and if it weren't for an extremely hardworking and dedicated judiciary, many more would feel the same.

The situation is nothing short of critical. For several reasons Kentucky is in a unique situation. It has what is known as a swing judgeship. That means a judge is shared between two districts. In this case it is the eastern and western districts. Being largely a rural State, the communities that hold court are usually a long way from each other and the only means of travel is by car over bad roads that wind through the mountains.

This situation is far more troubling than many of my colleagues from other areas of the country may realize. Long trips by judges after hours or before court take up a significant amount of time—time a judge would normally spend hearing cases. In fact, without the difficult travel requirements, I probably wouldn't be introducing this legislation today.

Juries also travel great distances. This results in jurors who would rather deliberate late into the evening—sometimes into the early morning—in order to avoid travel home and back for additional days of deliberations. This poses still further hardships on the judges who are then forced to stay up late and then travel to court in the next jurisdiction the very next day.

New gun control legislation has dramatically affected cases in Kentucky. Many times a more routine drug bust or other arrest turns into a time-consuming and difficult case because of the presence of the firearm. The practical effect of this has been a large increase in long cases that tie up the judges keeping them from getting to other matters on their dockets. Civil cases in many instances have been held to a stand still.

The swing judgeship adds just that much more to the problem. Swing judgeships are a thing of the past and as well they should be. Many of my colleagues may not be familiar with them, only two other States, Oklahoma and Missouri, have swing judgeships. In Kentucky's case, the judge must commute between a far eastern part of the State to courthouses well into the western half of the State. Unfortunately, the closest western courthouse is 3 hours from the base eastern court, with the farthest 6 hours away. As you can imagine, this is a major hardship. We can help. The legislation that I am introducing today will increase each district in Kentucky by one half judgeship. It does this by making the swing judgeship into a full-time eastern judgeship and by granting the western district a new permanent judgeship.

I say to my colleagues, Kentucky needs this help. It is supported by Kentucky's judiciary and by the facts. I ask for your support and I thank you for your time.

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. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of Kentucky.

(b) EASTERN DISTRICT.—The district judgeship for the eastern and western districts of Kentucky (as in effect before the date of the enactment of this Act) shall be a district judgeship for the eastern district of Kentucky only, and the incumbent of such judgeship shall hold his office under section 133 of title 28, United States Code, as amended by this section."

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, shall reflect the change in the total number of permanent district judgeships authorized under this section, such table is amended by amending the item relating to Kentucky to read as follows:

"Kentucky:

"Eastern	5
"Western	5".

By Mr. WOFFORD:

S. 2482. A bill to provide for the restoration of Washington Square in Philadelphia, PA, and for the inclusion of Washington Square within Independence National Historical park, and for other purposes; to the Committee on Energy and Natural Resources.

THE RESTORATION OF WASHINGTON SQUARE ACT OF 1994

• Mr. WOFFORD. Mr. President, over 218 years ago, our Founding Fathers inscribed the principles of liberty, justice, and equality in our society at Independence Hall in Philadelphia. And since that time, Independence Hall has been a symbol of not only the birth of our country, but its survival and prosperity. In 1948, Congress recognized the historical significance of the hall with an act "to preserve for the benefit of the American people * * * certain historical structures and properties of outstanding significance * * * associated with the American Revolution and the founding and growth of the United States."

And Americans have benefited from Independence National Historical Park. Millions of us, and visitors from around the world, have visited the park's buildings and historical sites to see the physical reminders of the beginnings of our Nation and to get a glimpse of what it might have been like had we been in Philadelphia on July 4, 1776.

However, the glory of the Revolutionary War is only half the story. Thousands of American soldiers and citizens lost their lives during the fierce battles. Washington Square, across from 6th Street and the park, is a testament to some who died during this first tumultuous period in our history. The square is the final resting

place of over 2,000 war dead and home to the Tomb of the Unknown Soldier of the Revolutionary War.

Although both Independence Park and Washington Square have a rich history to tell, they are presented in different ways. Visitors to Independence Park stroll down finely groomed walkways—the same visitors walk across the street to Washington Square and must traverse dangerous and broken flagstone paths. Furthermore, just before this year's July 4th celebration at the park, the eternal flame honoring the lost soldiers stopped functioning because the aging system designed to support it failed.

Arlington National Cemetery in Washington is home to the Tombs of the Unknown Soldier for every major American war, except the Revolutionary War. I am very concerned that the brave soldiers buried at Washington Square do not receive the same treatment as those at Arlington. For these reasons, I am introducing a bill today to provide for the restoration of Washington Square and for the inclusion of the historic square within the Independence National Historic park.

I hope this bill, and the bill Representative FOGLIETTA has introduced in the House of Representatives, will preserve Washington Square and give millions more visitors an opportunity to understand and appreciate what these American patriots did for our country. They deserve no less.●

By Mrs. HUTCHISON (for herself and Mr. HEFLIN):

S. 2483. A bill to amend the Small Business Act, and for other purposes; to the Committee on Small Business.

THE MINORITY SMALL BUSINESS PRESERVATION ACT OF 1994

● Mrs. HUTCHISON. Mr. President, I am pleased to introduce the Minority Small Business Preservation Act of 1994, legislation to assist minority small business owners who benefit from the Small Business Act, section 8(a) program, in developing to their fullest potential.

One of the many benefits of our great society is the opportunity to own and operate a private business. As a former small business owner, I know firsthand the challenges and rewards of business ownership and I strongly applaud the entrepreneurial spirit.

The 8(a) program was established to assist small disadvantaged businesses in overcoming the effects of discrimination and developing the ability to compete in the marketplace. In one important way, the program has fallen short in meeting its purpose.

A number of studies conducted by the Senate, the General Accounting Office, the U.S. Commission on Minority Business Development and the Small Business Administration have made it clear that one of the most compelling problems with the 8(a) program, and the area most in need of improvement, is its inordinately high business failure rate among graduated 8(a) program firms. If businesses fail after leaving the program, the program has failed to accomplish its mission. These studies suggest that different kinds of businesses need varying lengths of participation in the 8(a) program in order to maintain viability. The program currently has a maximum participation of 9 years, without regard to the development or capital requirements of a particular type of business or industry. In other words, it is a one-size-fits-all limit that does not work.

One of the purposes of the 8(a) program is to help ensure that graduate firms continue as viable minority businesses, functioning and contributing as constructive parts of a diversified U.S. economy.

One way to accomplish this goal is to make the program fit the participants. Since the Small Business Administration uses a system based on the Standard Industrial Classification [SIC] codes to determine if a business is small, it stands to reason that the SIC codes should not be used to determine the length of program participation.

Therefore, it makes sense to suspend graduations from the program until a more suitable participation limit can be identified and applied to the different kinds of enterprises enrolled in the program.

In its 1992 final report, the U.S. Commission on Minority Business Development sums it up very well:

The Commission finds it questionable to conclude that all firms, in all industries, under all circumstances need exactly nine years of nurturing to counteract the perils of the marketplace and the effects of ethnic and racial discrimination. There is presently no method to determine length of participation in the 8(a) Program that is based on the developmental needs of individual firms.

It is my intent to secure congressional support for a temporary suspension of graduation from the 8(a) program so that highly technical and capital-intensive businesses are not forced out, while reasonable participation periods are being established to reflect specific objective business needs.

Minority business development programs are not social programs; they are investments in America's economic system and in its future. This bill is a step toward protecting that investment and I urge my colleagues to cosponsor and support it.●

● Mr. HEFLIN. Mr. President, the Small Business Administration's 8(a) program has a maximum participation period of 9 years, regardless of whether a particular type of business may require extensive startup time or is capital intensive. If the objective of the program is to assist a minority-owned company to develop to the point where it has the skills and infrastructure necessary to thrive in the mainstream economy, then it is essential that we consider suspending graduations from the program while participation periods for capital intensive industries are redetermined. Too many capital intensive 8(a) companies are graduating after 9 years into oblivion.

In 1988, Congress enacted the Business Opportunity Development Act (P.L. 100-656) which increased the 8(a) participation period from 7 to 9 years. Congress also established the U.S. Commission on Minority Business Development and directed it to:

* * *review and assess * * * the appropriate maximum term for program participation; such evaluation shall take into account relevant industry data, the development cycles of particular industries, and the financial, managerial and technological needs of such concerns to become competitive; a study shall be conducted relating to the fixed program term allowed under statute and the advisability of adopting alternative terms based on Standard Industrial Codes or other economic indices. Reform Act, Section 505(b).

In 1992, the Commission on Minority Business Development, established under Public Law 100-656, determined that businesses in capital intensive industries need up to 14 years, not 9 to properly develop under the 8(a) program. The Commission spoke emphatically and at length on this issue.

Based on all the evidence we have received, the Commission recommends that program participation terms be approved on the basis of four-digit SIC Codes. We believe that such terms can vary from as low as seven years to a maximum of fourteen years, depending upon the industry in which the firm is engaged. Preliminarily, the Commission views manufacturing firms, and concerns engaged in high-tech or capital intensive industries, as generally requiring more time to develop because of the economic concentration in such areas and other significant market entrance barriers.

* * * For example, it should take no longer than seven years to determine whether a specialty contractor * * * has the potential to succeed, while a developer/heavy construction general contractor may take nearly twice as long.

The Commission realizes that the recommendation presents an extremely difficult challenge. However, we have concluded that such an effort is essential if the program is to be true to its stated purpose of economic development. In no event, however, do we condone the practice of setting a fixed term based on an exchange of political volleys or the search for simplistic administrative solutions.

Therefore, it is my belief that Congress should implement the Commission's recommendations by enacting legislation directing the SBA to issue regulations that would establish participation periods based on an industry's specific requirements. Congress should also temporarily suspend graduation from the 8(a) program pending the establishment of these specific participation periods for individual industries. The suspension is critical for capital intensive firms that are now in the 8(a) program but need the additional time to build their capital base. I urge

my colleagues to join with me in passing S. 2483 before the end of this legislative session.●

By Mr. ROBB:

S. 2484. A bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962; to the Committee on Armed Services.

THE PURPLE HEART ACT OF 1994

● Mr. ROBB. Mr. President, I introduce legislation which will correct an inequity that unfairly denies due recognition to some of America's worthiest veterans.

Specifically, this bill would entitle prisoners of war from World War I, World War II, and Korea to receive the Purple Heart Medal for wounds which were sustained while being captured or while in captivity. Under current law these veterans are denied this award despite the fact that veterans of subsequent wars and engagements are entitled to the medal.

I'd like to share a story which will help to dramatize this oversight.

Fifty years ago this past July, on a warm summer afternoon 25,000 feet above a rural village near Budapest, Hungary, a 20-year-old Army Air Corps gunner by the name of John Vecchiola, on his 44th mission in the ball turret of a B–17, endured one of the most terrifying experiences any of us could imagine.

While involved in a bombing run on an enemy airbase, his B–17 sustained a direct hit by anti-aircraft guns which peppered the plane and crew with fragments of bomb and sheet metal. Within seconds, the entire tail section had separated from the plane and sent the aircraft and surviving crewmembers plummeting to Earth.

Miraculously, five members of the 10-man crew—including a wounded John Vecchiola—survived the ordeal, parachuting into the newly plowed cornfields along the Danube River.

Hobbling to safety, John managed to elude the enemy search party which was combing the area for the fallen Americans.

Using this time to dress his wounds and gather his thoughts, John had hopes of making his way to a Budapest hotel known as a safehouse for the Hungarian underground. From there he would be smuggled out of the country and back to Allied forces; unfortunately, John was captured before he could find that underground contact.

It was as much rumor, as it was commonly understood among Allied forces, that those prisoners who were physically unable to make the long march back to local prison camps, were shot on site. While reports varied widely depending on the source, John Vecchiola was taking no chances. He had hopes of seeing his family and fellow soldiers again. Perhaps, he thought, he'd be healthy enough to escape within a few weeks. Rather than risk being shot to death on the spot, John sought no medical attention from his captors, and did his best to ignore his pain.

He and other allied prisoners were marched several miles and then placed upon railcars and transferred to permanent prison camps in Poland. Once in prison camp, John was assisted by an allied physician who helped him clean and dress his wound. Within several months, John's wounds were well on the way to being fully healed.

Some 337 days later, on April 15, 1945, while his captors were marching the prisoners away from an advancing allied line, a starved and feeble John Vecciola—at the time weighing only 92 pounds—escaped from the column and was subsequently rescued by British troops with the 11th Armored Division.

In recognition of the pain, suffering, and hardships like those suffered by John Vecciola, President John F. Kennedy, by Executive order on April 25, 1962, authorized the award of the Purple Heart to POW's for wounds and injuries received during capture or while in captivity.

However, despite years of urging by various veterans organizations and Members of Congress, the Department of Defense has declined to apply the 1962 criteria to prisoners of war held prior to the date the Executive order was signed.

Therefore, despite the wounds he suffered, the starvation and maltreatment he endured, and despite the fact that veterans from Vietnam, Grenada, Beirut, Kuwait, and Somalia would all have been entitled to a Purple Heart Medal for similar action, John Vecciola is not. This is wrong.

Mr. President, as a Vietnam veteran who has had the privilege of leading marines in combat, and as a member of the Senate's Select Committee on POW/MIA Affairs, I am acutely aware of the hardships endured by service personnel who have been captured by hostile military forces. All of these servicemen have suffered mental and physical abuse, and many were tortured, beaten, and starved while in confinement.

While we might debate how best to recognize their sacrifice and hardship, one thing is abundantly clear: We should not differentiate between prisoners of war based solely on the date of the war in which they were captured.

Mr. President, our prisoners of war from World War I, World War II, and Korea suffered various wounds and innumerable atrocities at the hands of their captors. Many continue to suffer from physical difficulties associated with their capture and confinement. The Purple Heart Medal would serve to put their service and sacrifice on par with the veterans of other wars, and will remind Americans of their sacrifices. It seems a fitting and overdue recognition.

Mr. President, I ask unanimous consent that the text of the bill and the supporting letters and resolutions of the Military Order of the Purple Heart, the Disabled American Veterans, the Jewish War Veterans of the United States, AmVets, and the Vietnam Veterans of America be printed in the RECORD.

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

S. 2484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO AWARD PURPLE HEART.

(a) AUTHORITY TO MAKE AWARD.—(1) Subject to paragraph (2), the President may award the Purple Heart to a person described in subsection (b) who was taken prisoner and held captive before April 25, 1962.

(2)(A) Except as provided in subparagraph (B), an award of the Purple Heart under paragraph (1) may be made only in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to a person described in subsection (b) who has been taken prisoner and held captive on or after April 25, 1962.

(B) An award of a Purple Heart may not be made under paragraph (1) to any person convicted by a court of competent jurisdiction of rendering assistance to any enemy of the United States

(b) ELIGIBLE PERSONS.—(1) A person referred to in subsection (a) is an individual—

(A) who is a member of the Armed Forces of the United States; and

(B) who is wounded while being taken prisoner or held captive—

(i) in an action against an enemy of the United States;

(ii) in military operations involving conflict with an opposing foreign force;

(iii) during service with friendly forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party;

(iv) as the result of an action of any such enemy or opposing armed force; or

(v) as the result of an act of any foreign hostile force.

(2) Any wound of a person referred to in paragraph (1)(A) that is determined by the Secretary of Veterans Affairs to be a service-connected injury arising from being taken prisoner or held captive under a circumstance referred to in paragraph (1)(B) shall also meet the requirement set forth in paragraph (1)(B).

(c) RELATIONSHIP TO OTHER AUTHORITY TO AWARD THE PURPLE HEART.—The authority under this Act is in addition to any other authority of the President to award the Purple Heart.

MILITARY ORDER OF THE PURPLE HEART

RESOLUTION NO. 94–038

Committee: Legislative Service.

Committee action: Approve: By Resolutions Committee, August 10, 1994.

Re: To authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

Whereas: Current law provides for the award of the Purple Heart Medal to POW's under certain circumstances, who were captured on or after April 25, 1962; and

Whereas: Senator Robb of Virginia has proposed a bill to award the Purple Heart Medal to POWs captured prior to April 25, 1962; and

Whereas: Presidents Kennedy and Reagan have issued Executive Orders allowing for the award of the Purple Heart Medal to civilians wounded under certain circumstances to include terrorists attacks; now, therefore be it

Resolved: That the Military Order of the Purple Heart support legislation proposed by Senator Robb, which is attached to this resolution; and be it further

Resolved: That the Military Order of the Purple Heart of the United States of America seek legislation, to negate the award of the Purple Heart Medal to any civilian under any circumstances; and finally be it

Resolved: That copies of this resolution be forwarded to the 62nd National Convention of the Military Order of the Purple Heart of the United States of America, for adoption by the delegates in assembly at Des Moines, Iowa, August 8th thru August 13th, 1994.

—Submitted by Edmund E. Janiszewski, National Legislative Director, July 14, 1994.

Convention action: Approved by Convention Delegates August 11, 1994.

DISABLED AMERICAN VETERANS NATIONAL SERVICE AND LEGISLATIVE HEADQUARTERS,
Washington, DC., September 6, 1994.

Hon. CHARLES S. ROBB,
Richmond, VA.

DEAR SENATOR ROBB: Thank you for providing us with a copy of your draft bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

This measure has the support of the Disabled American Veterans. The delegates to our 1994 annual National Convention adopted a resolution (copy enclosed) supporting legislation for this purpose, and your draft bill is consistent with that resolution.

We appreciate the changes you made to address our concerns, and we appreciate your efforts on behalf of this deserving group of veterans.

Sincerely,

RICHARD F. SCHULTZ,
National Legislative Director.

NATIONAL INTERIM LEGISLATIVE COMMITTEE RESOLUTION

AUTHORIZE THE PURPLE HEART MEDAL TO FORMER POW'S OF WORLD WAR I, WORLD WAR II, AND THE KOREAN WAR FOR INJURIES RECEIVED DURING CAPTIVITY

Whereas, Title 32, U.S. Code, effective April 25, 1962, authorizes the award of the Purple Heart to prisoners of war for wounds or injuries sustained as a result of beatings and other forms of physical torture while in captivity; and

Whereas, prior to April 25, 1962, the Purple Heart Medal for former prisoners of war was only awarded to those who were wounded or injured in action prior to or at the time of capture or in an attempted or successful escape; and

Whereas, former prisoners of war of World War I, World War II and the Korean War were physically abused, beaten, tortured and placed on forced work details, without concern for their health by enemy guards and hostile civilians; and

Whereas, many of these servicemen, while in captivity, suffered from physical abuse, malnutrition and exhaustion, as well as received wounds and injuries as a result of direct and indirect action at the hands of their captors; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Chicago, Illinois, August 20-25, 1994, supports the enactment of legislation to provide the same consideration to the award of the Purple Heart Medal to former prisoners of war held captive prior to April 25, 1962, as afforded those captured after that date.

JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA, INC.,
Washington, DC, August 31, 1994.

Hon. CHARLES S. ROBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROBB: I am happy to inform you that JWV supports the bill you recently introduced that authorizes "the award of the Purple Heart to wounded persons who were prisoners of war on or before April 25, 1962."

Given the many physical and psychological injuries that result from being a prisoner of war, the Jewish War Veterans of the United States of America (JWV) feels that wounded US servicemen/women held captive during wartime rightfully deserve to be awarded the Purple Heart.

I remain,

DAVID H. HYMES,
National Commander.

AMVETS,
Lanham, MD, August 25, 1994.

Hon. CHARLES S. ROBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROBB: I am writing to express AMVETS' support for your bill to award the Purple Heart to certain military personnel who were taken prisoner before April 25, 1962.

We are pleased that your bill will recognize the sacrifices made by those who suffered at the hands of the enemy, whatever the period of conflict.

I would also like to express AMVETS' opposition to awarding the Purple Heart to civilians who suffer injuries because of terrorist action. While we in no way minimize anyone's suffering, there is a fundamental difference between the responsibilities incumbent upon each service member and their civilian counterparts. That alone justifies the limitation on the eligibility for the award.

Thank you again for working for America's veterans, and we look forward to working with you in the future.

Sincerely,

DONALD M. HEARON,
National Commander.●

By Mr. KOHL (for himself and Mr. CHAFEE):

S. 2486. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals, to increase the taxes on tobacco products, and for other purposes; to the Committee on Finance.

INCREASED HEALTH INSURANCE THROUGH THE INCREASE OF TAXES ON TOBACCO

● Mr. KOHL. Mr. President, today I am introducing a bill that is sorely needed by the many hard-working Americans who are self-employed, many of whom are farmers. This bill, which I have developed with my good friend JOHN CHAFEE, extends the 25-percent Federal tax deduction for health insurance that expired last year. Since this deduction cannot be extended without an offset, this bill pays for the deduction with a five-cent increase in the Federal tax on tobacco products.

We have all been working hard to enact health care reform this year, and until this week we held out hope that significant reforms could be enacted this year. We now know that partisan gridlock has stymied the possibility of passing health reform. We therefore need to take the responsible steps necessary to ensure that those who have insurance are not penalized by Congress' failure to act.

Do we want farmers and self-employed people to pay the price for the death of health reform? Of course not. An estimated 12 million Americans are self-employed for part or all of their livelihood, and almost 3 million have no health insurance. Many have a hard enough time affording their coverage. If we don't do the right thing and extend this provision, we will have added to the number of Americans without health insurance, rather than reduced it. Not a good record for a Congress that vowed to bring that number down.

For these reasons, Senator CHAFEE and I have developed this legislation to extend the existing 25 percent deductibility of health insurance for the self-employed for 2 years. While my ultimate goal is raising the deduction to 100 percent, we must first act to maintain the deduction people can use today. When we address comprehensive health care reform, self-employed small business people and farmers should get the same deduction that major corporations receive.

As for the offset we have included in this bill, we are reluctant to make this slight increase in tobacco taxes, but believe that extending this important deduction upon which so many Americans rely is important enough that we can make this change. If we are to extend this deduction, we must pay for it, and this is the most responsible way to do so.

Mr. President, I ask unanimous consent that the full text of the measure be printed in the RECORD.

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

S. 2486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 2-YEAR EXTENSION OF DEDUCTION OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(2) EXTENSION.—Section 162(l)(6) of the Internal Revenue Code of 1986 is amended by striking "1993" and inserting "1995".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2. INCREASE IN TAXES ON TOBACCO PRODUCTS.

(a) IN GENERAL.—

(1) CIGARS.—Subsection (a) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars) is amended—

(A) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 and 1992)" in paragraph (1) and inserting "$1.359 per thousand"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, a tax equal to 15.41 percent of the price for which sold but not more than $36.25 per thousand."

(2) CIGARETTES.—Subsection (b) of section 5701 of such Code (relating to rate of tax on cigarettes) is amended—

(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (1) and inserting "$14.50 per thousand"; and

(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (2) and inserting "$30.45 per thousand".

(3) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code (relating to rate of tax on cigarette papers) is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "0.91 cent".

(4) CIGARETTE TUBES.—Subseciton (d) of section 5701 of such Code (relating to rate of tax on cigarette tubes) is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "1.81 cents".

(5) SNUFF.—Paragraph (1) of section 5701(e) of such Code (relating to rate of tax on smokeless tobacco) is amended by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "43.50 cents".

(6) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) of such Code is amended by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "14.5 cents".

(7) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code (relating to rate of tax on pipe tobacco) is amended by striking "67.5 cents (56.25 cents on chewing tobacco removed during 1991 or 1992)" and inserting "81.6 cents".

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco manufactured in or imported into the United States which is removed before January 1, 1995, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, 23.4 cents per thousand.

(B) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, a tax equal to 2.66 percent of the price for which sold, but not more than $6.25 per thousand.

(C) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2.50 per thousand.

(D) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $5.25 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.—On cigarette papers, 0.16 cent for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES.—On cigarette tubes, 0.31 cent for each 50 tubes or fractional part thereof; except that, if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF.—On snuff, 7.5 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.—On chewing tobacco, 2.5 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.—On pipe tobacco, 14.1 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco on January 1, 1995, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1995, in the same manner as the tax imposed under such section is payable with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed on January 1, 1995.

(3) CIGARS, CIGARETTES, CIGARETTE PAPER, CIGARETTE TUBES, SNUFF, CHEWING TOBACCO, AND PIPE TOBACCO.—For purposes of this subsection, the terms "cigar", "cigarette", "cigarette paper", "cigarette tubes", "snuff", "chewing tobacco", and "pipe tobacco" shall have the meaning given to such terms by subsections (a), (b), (e), and (g), paragraphs (2) and (3) of subsection (n), and subsection (o) of section 5702 of the Internal Revenue Code of 1986, respectively.

(4) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by paragraph (1) shall not apply to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco in retail stocks held on January 1, 1995, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(A) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco—

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1995, and

(ii) which are entered into the customs territory of the United States on or after January 1, 1995, from a foreign trade zone, and

(B) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco which—

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1995, and

(ii) are entered into the customs territory of the United States on or after January 1, 1995, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco shall, for purposes of paragraph (1), be treated as being held on January 1, 1995, for sale.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed after December 31, 1994.●

● Mr. CHAFEE. Mr. President, I am pleased to join my colleague from Wisconsin today to introduce legislation extending, for 2 years, the 25-percent deduction for health insurance of self-employed individuals. While time is getting late, it is our hope that this legislation can be enacted before the end of the session thereby preserving this provision which is extremely important to the thousands of small business men and women in our country.

This proposal has overwhelming backing in Congress. It was allowed to expire last year only because it was widely anticipated that it would be included as part of this year's health care reform. Indeed, the health care reform proposals put forth by the President, the majority leader, the Republican leader, the Finance Committee, and the mainstream coalition, not only extended this deduction but increased it as well.

Mr. President, one of the goals of reform was to bring the spiraling cost of health care insurance under control. America's small businesses face some of the highest health insurance costs in the Nation, yet unlike large corporations, they receive little assistance from the Federal Government.

Large businesses are able to deduct the full cost of health care provided to their workers. In addition, employees receive a substantial tax break, because this benefit is not included in their taxable income. Yet, unless we enact this bill before the end of this session, small business men and women will receive no such benefit.

This bill is a small step towards addressing this inequity. It continues the 25 percent deduction for the cost of health insurance for self-employed individuals for 2 years. Like the tax treatment of large businesses and their employees, it maintains the status quo with respect to the tax treatment of health care costs.

Mr. President, the country's small business men and women cannot wait until next year. By failing to act now, we are imposing a substantial tax increase on them. If left to next year, it is unlikely that we will be able to act before the due date for filing 1994 returns. Action now is essential, and I urge my colleagues to support this legislation.●

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN) (by request):

S. 2487. A bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1994

● Mr. CAMPBELL. Mr. President, today I am introducing the Native

American Financial Services Organization Act of 1994 [NAFSO]. The distinguished Chairman and Vice Chairman of the Indian Affairs Committee, Senators INOUYE and MCCAIN, join me as original cosponsors of the legislation.

While I know that it may be too late to enact this legislation this Congress, it is my hope that we can begin discussion on the measure with the hope that the Congress can act on it early next year.

Mr. President, there is a continued need for assistance to improve Native American, Alaska Native, and Native Hawaiian housing throughout the country. The Bureau of Indian Affairs [BIA] estimated in 1993 that as many as 90,000 Native American families were in need of improved housing. Nearly 50,000 families need new homes, while 40,000 need their homes substantially renovated.

The problems that exist in Indian housing stem from several factors.

First, there is currently little, if any, conventional lending available to Native people seeking to purchase a home. A system for providing mortgages or loans for development is virtually non-existent in Indian country.

Second, many housing authorities lack the expertise to manage, coordinate and maintain a successful program. Currently, there is little guidance to assist housing authorities and Native American governing bodies through the complicated process in bringing together the relevant parties to coordinate the many funding programs throughout the government.

Finally, tribal governments have had to rely on Federal Government grant and loan programs to build streets and roads, to provide water and sewer and other utilities, and to provide basic service facilities. There is no income, commercial, or real estate tax base from which the tribal governments obtain revenue.

Mr. President, based upon the findings of the Commission on American Indian, Alaska Native, and Native Hawaiian Housing, the Native American Financial Services Organization Act of 1994 is an attempt to address the need for private financing of home ownership and economic development on and near reservation lands.

Under the legislation, the Native American Financial Services Organization would establish a limited government-chartered corporation. A Federal grant would capitalize the federally-chartered organization, which would cease to exist upon a designated date. At this point, the charter would become a private corporation.

More specifically, the legislation is designed to:

Help serve the mortgage and other lending needs of Native Americans by providing technical assistance to establish and organize Native American community lending institutions that would be called Native American Financial Institutions [NAFIs]. These lending institutions could be any type of financial institution, including community banks, credit unions, and savings banks, and therefore could provide a wide range of financial services;

Develop and provide financial expertise and technical assistance to the Native American Financial Institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

Develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, and inapplicability of standard underwriting criteria;

Assist in providing mortgage underwriting assistance (but not originate loans) under contract to the lending institutions; and

Work with Fannie Mae and Freddie Mac, and other participants in the secondary market for residential mortgages in identifying and eliminating barriers to purchase Native American loans.

In short, the Native American Financial Service Organization would help provide financial independence to the Native American community and would begin to address the housing deficiencies by working to attract private capital into the Indian housing market.

Mr. President, I ask that the text of the bill, along with a letter from Secretary Cisneros supporting the legislation, be printed in the RECORD.

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

S. 2487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Native American Financial Services Organization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—STATEMENT OF POLICY; DEFINITIONS

SEC. 101. POLICY.

Based upon the findings and recommendations by the Commission on American Indian, Alaska Native and Native Hawaiian Housing established by Public Law 101-235, the Congress has determined that housing shortages and deplorable living conditions are at crisis proportions in Native American communities throughout the United States. The lack of private capital to finance housing and economic development for Native Americans and Native American communities seriously exacerbates this problem. To begin to address this crisis, it is the policy of the United States to improve the economic conditions and supply of housing in Native American communities throughout the United States by creating the Native American Financial Services Organization. It is anticipated that when the Native American Financial Services Organization is no longer a Congressionally chartered body corporate, it will function as a tribal, state or District of Columbia corporation.

SEC. 102. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to help serve the mortgage and other lending needs of Native Americans by assisting in the establishment and organization of Native American Financial Institutions, developing and providing financial expertise and technical assistance to Native American Financial Institutions, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination;

(2) to promote access to mortgage credit in Native American communities in the Nation by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through Native American Financial Institutions;

(3) to promote the infusion of public capital into Native American communities throughout the United States and to direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through Native American Financial Institutions; and

(4) to provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, Native American Financial Institutions, and other

borrowers by increasing the liquidity of such investments and improving the distribution of investment capital available for such financing.

SEC. 103. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) The term "Alaska Native" means any person recognized as an Alaska Native by the Federal Government.

(2) The term "Board of Directors" means the board of directors of the Organization.

(3) The term "Chairperson" means the chairperson of the Board of Directors.

(4) The term "designated merger date" means the specific calendar date and time of day designated by the Board of Directors under section 502(b).

(5) The term "Fund" means the Community Development Financial Institutions Fund established by the Community Development Banking and Financial Institutions Act of 1994.

(6) The term "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) The term "merger plan" means the plan of merger adopted by the Board of Directors according the section 502(a).

(8) The term "Native American" means any member of an Indian Tribe.(i) The term "Native American Financial Institution" means a person (other than an individual) that—

(A) qualifies as a "community development financial institution" under the Community Development Banking and Financial Institutions Act of 1994;

(B) satisfies the requirements established by the Community Development Banking and Financial Institutions Act of 1994 and the Fund for applicants for assistance from the Fund;

(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

(D) demonstrates that it has the endorsement of the Native American community it intends to serve.

(9) The term "Native American lender" means a Native American Financial Institution, Native American governing body, Native American housing authority or other Native American financial institution which acts as a primary mortgage or economic development lender in a Native American community.

(10) The term "new corporation" means the corporation formed according to section 501.

(11) The term "nonqualifying mortgage loan" means a mortgage loan deemed by the Organization to be of such quality, type, class or principal amount as to not meet the purchase standards of the Federal National Mortgage Assqciation or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(12) The term "Organization" means the Native American Financial Services Organization.

(13) The term "qualifying mortgage loan" means a mortgage loan deemed by the Organization to be of such quality, type, class or principal amount as to meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(14) The term "transition period" means the period of time between the approval of the merger plan by both the Secretary of Housing and Urban Development and the Secretary of the Treasury and the designated merger date.

TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

SEC. 201. ESTABLISHMENT OF THE ORGANIZATION.

(a) CREATION; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

(1) There is established and chartered a body corporate to be known as the Native American Financial Services Organization ("Organization"). The Organization shall have existence as a Congressionally chartered body corporate until the designated merger date, at which time its charter shall terminate, unless such charter is earlier surrendered by the Organization. The right to revise, amend or modify the Organization charter is specifically and exclusively reserved to the Congress.

(2) The powers of the Organization shall be vested in a Board of Directors. The Board of Directors shall determine the policies that govern the operations and management of the Organization. The principal office of the Organization shall be in the District of Columbia. For purposes of venue, Organization shall be considered a resident of the District of Columbia.

(3)(A) The Board of Directors of the Organization shall consist of nine persons, three of whom shall be appointed by the President of the United States to serve at the President's pleasure and six of whom shall be elected by the class A stockholders, all in accordance with the bylaws of the Organization. If class B stock is issued under section 301(b), the Board of Directors shall consist of 13 persons, and the four additional members shall be elected by the class B stockholders in accordance with the bylaws of the Organization. Each member of the Board of Directors shall be elected or appointed for a term of four years, except that the members of the initial Board of Directors shall have the following terms: of the three members appointed by the President, one will have a two-year term, one will have a three-year term, and one will have a four-year term, all as designated by the President at the time of their appointments; of the six members elected by the class A stockholders, two will have two-year terms, two will have three-year terms, and the remaining two will have four- year terms; and if class B stock is issued and four additional members are elected by the class B stockholders, one will have a two-year term, one will have a three-year term, and the remaining two will have four-year terms. All members appointed by the President shall have expertise in one or more of the following areas: Native American housing and economic development programs, financing in Native American communities, Native American governing bodies and court systems, restricted and trust land issues, economic development, and small consumer loans.

(B) The Board of Directors shall select a Chairperson from among its members, except that the initial Chairperson shall be selected from among the members of the initial Board of Directors who have been appointed or elected to four-year terms.

(C)(i) Any appointed directorship that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term.

(ii) Any elected directorship that becomes vacant shall be filled by appointment by the Board of Directors, but only for the unexpired portion of the term.

(D) Any member of the Board of Directors may continue to serve after the expiration of the term of office to which the director was appointed or elected until a successor has been appointed or elected, and qualified.

(b) POWERS OF THE ORGANIZATION.—The Organization shall have power—

(1) to adopt, alter, and use a corporate seal;

(2) to adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

(A) the business of the Organization shall be conducted;

(B) the elected directors of the Organization shall be elected;

(C) the stock of the Organization shall be issued, held, and disposed of;

(D) the property of the Organization shall be disposed of; and,

(E) the powers and privileges granted to the Organization by this Act and other law shall be exercised and enjoyed;

(3) to make and perform contracts, agreements, and commitments, including entering into a cooperative agreement with the Fund;

(4) to prescribe and impose fees and charges for services provided by the Organization;

(5) to settle, adjust, and compromise, and with or without consideration or benefit to the Organization to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Organization, provided that such settlement, adjustment, compromise, release or waiver shall not be adverse to the interests of the United States;

(6) to sue and be sued, complain and defend, in any tribal, State, Federal, or other court;

(7) to acquire, take, hold, and own, and to deal with and dispose of any property;

(8) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents as the Board of Directors determines reasonable and not inconsistent with the provisions this section;

(9) to incorporate a new corporation under State, District of Columbia or tribal law, as provided in section 501;

(10) to adopt a plan of merger, as provided in section 502;

(11) to consummate the merger of the Organization into the new corporation, as provided in section 503; and

(12) to have succession until the designated merger date or any earlier date on which the Organization surrenders its Federal charter.

(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT FOR ORGANIZATION OF ANY FEDERAL RESERVE BANK, FEDERAL HOME LOAN BANK, OR ANY BANK DESIGNATED AS DEPOSITARY OF PUBLIC MONEY.—Moneys of the Organization not required to meet current operating expenses shall be invested in obligations of, or obligations guaranteed by, the United States or any agency thereof, or in obligations, participations or other instruments that are lawful investments for fiduciary, trust or public funds. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Organization there is outstanding a designation by the Secretary of the Treasury as a

general or other depositary of public money, may be designated by the Organization as a depositary or custodian or as a fiscal or other agent of the Organization, and is hereby authorized to act as such depositary, custodian, or agent.

(d) ACTIONS BY AND AGAINST THE ORGANIZATION; JURISDICTION; REMOVAL OF ACTIONS; ATTACHMENT OR EXECUTION ISSUED AGAINST THE ORGANIZATION.—Notwithstanding section 1349 of title 28 of the United States Code or any other provision of law—

(1) the Organization shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

(2) all civil actions to which the Organization is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

(3) any civil or other action, case or controversy in a tribal court, court of a State, or in any court other than a district court of the United States, to which the Organization is a party may at any time before the trial thereof be removed by the Organization, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the District of Columbia, by following any procedure for removal of causes in effect at the time of that removal.

SEC. 202. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

(a) TECHNICAL ASSISTANCE AND SERVICES.—The Organization is authorized to—

(1) assist the Fund in the establishment and organization of Native American Financial Institutions;

(2) assist the Fund in developing and providing financial expertise and technical assistance to Native American Financial Institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, high operating costs, and inapplicability of standard underwriting criteria;

(4) assist the Fund in providing mortgage underwriting assistance (but not originate loans) under contract to Native American Financial Institutions;

(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to their purchase of Native American mortgage loans originated by Native American Financial Institutions and other lenders in Native American communities;

(6) obtain capital investments in the Organization from Indian tribes, Native American organizations, and others ;

(7) assist the Fund in its operation as an information clearinghouse, providing information on financial practices to Native American Financial Institutions; and

(8) assist the Fund in monitoring and reporting to the Congress on the performance of Native American Financial Institutions in meeting the economic development and housing credit needs of Native Americans.

(b) PURCHASES AND SALES OF MORTGAGES AND MORTGAGE-BACKED SECURITIES.—In the event that the Secretary of Housing and Urban Development determines that the combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation of residential one to four family Native American nonqualifying mortgage loans originated by Native American Financial Institutions and other lenders—

(1) in the second year following the establishment of the Organization total less than $20,000,000, unless it can be demonstrated to the Secretary of Housing and Urban Development that such purchase goal could not be met; or

(2) in any succeeding year, total less than that amount which the Secretary of Housing and Urban Development has determined and published as a reasonable Native American mortgage purchase goal for such combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation in such year; the Organization shall thereafter be permitted to make such purchases. In determining such goal, the Secretary shall take into account the Fund's study of Native American lending and investment required by the Community Development Banking and Financial Institutions Act of 1994. The Organization, upon receiving written confirmation from the Secretary of Housing and Urban Development, is thereafter authorized, without restriction as to time, to—

(A) with respect to residential mortgage loans originated by Native American Financial Institutions which are qualifying mortgage loans—

(i) purchase such qualifying mortgage loans;

(ii) hold such qualifying mortgage loans for a period of time not to exceed 12 months; and

(iii) resell such qualifying mortgage loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or other secondary market participants, as provided in section 303(b);

(B) with respect to residential mortgage loans originated by the Native American Financial Institutions which are nonqualifying mortgage loans—

(i) purchase such nonqualifying mortgage loans from the Native American Financial Institutions for such term as the Organization deems appropriate including the life of the mortgage loan, provided that—

(I) the Organization has reasonable assurance that the loan will be repaid within the time agreed;

(II) the Native American Financial Institution selling the loan retains a participation of not less than 10 per centum in the mortgage;

(III) the Native American Financial Institution selling the loan agrees for such period of time and under such circumstances as the Organization may require, to repurchase or replace the mortgage upon demand of the Organization in the event that the loan is in default; or

(IV) that portion of the outstanding principal balance of the loan which exceeds 80 per centum of the value of the property securing such loan is guaranteed or insured by a qualified insurer as determined by the Organization;

(ii) issue mortgage-backed securities or other forms of participations based on pools of such nonqualifying mortgage loans, as provided in section 303(c);

(C) to purchase, service, sell, lend on the security of, and otherwise deal in—

(i) residential mortgages that are secured by a subordinate lien against a one- or four-family residence that is the principal residence of the mortgagor; and

(ii) residential mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units; and

(D) Rights and remedies of the Organization, including without limitation on the generality of the foregoing any rights and remedies of the Organization on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under—

(i) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Organization of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or

(ii) any administrative or other action which becomes effective after such acquisition. The Organization is authorized to conduct its business without regard to any qualification or similar statute in the District of Columbia, or any State or tribal jurisdiction.

SEC. 203. NATIVE AMERICAN LENDING SERVICES GRANT.

To the extent funds are available as provided in section 602, and the Fund and the Organization enter into a cooperative agreement for the Organization to provide technical assistance and other services to Native American Financial Institutions, such agreement shall provide that the initial grant payment, anticipated to be $5,000,000, shall be made when the initial Organization Board of Directors takes office. The payment of the balance of $5,000,000 shall be made to the Organization not later than one year from the date of the initial grant payment.

SEC. 204. AUDITS.

(a) INDEPENDENT AUDITS.—

(1) The Organization shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Organization—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) to the extent determined necessary by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, comply with any disclosure requirements imposed under section 401.

(b) GAO AUDITS.—

(1) Beginning after the first two years of the Organization's operation, unless earlier required by any other statute, grant or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Organization shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) To carry out this subsection, the representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Organization and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with

the balances or securities held by depositaries, fiscal agents, and custodians. The representatives of the General Accounting Office shall also have access, upon request to the Organization or any auditor for an audit of the Organization under subsection (a), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Organization and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(3) A report on each such audit shall be made by the Comptroller General to the Congress.

(4) The Organization shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

SEC. 205. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

The Organization shall collect, maintain, and provide to the Secretary of Housing and Urban Development, in a form determined by the Secretary, such data relating to its mortgages on housing consisting of one to four dwelling units and of more than four dwelling units and to its activities relating to economic development as the Secretary deems appropriate.

SEC. 206. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Board of Directors shall establish an Advisory Council.

(b) MEMBERSHIP.—The Advisory Council shall consist of 13 members, 1 representative from each of the 12 districts established by the Bureau of Indian Affairs and one from Hawaii. Each member shall be appointed by the Board of Directors. No fewer than six of the members of the Advisory Council shall have financial expertise. No fewer than nine of the Advisory Council shall be Native Americans. Each member shall be appointed for a term of four years; except that the initial council shall be appointed as follows: four members will have a two-year term, four members will have a three-year term, and the remaining five members will have a four-year term, all as designated by the Board of Directors at the time of their appointments.

(c) DUTIES.—The Advisory Council shall advise the Board of Directors on all policy matters of the Organization. Through the regional representation of its members, the Council shall provide information to the Board from all sectors of the Native American community.

TITLE III—CAPITALIZATION OF ORGANIZATION

SEC. 301. CAPITALIZATION OF THE ORGANIZATION.

(a) CLASS A STOCK.—The class A stock of the Organization shall be issued to Indian Tribes. The allocation shall be by population as determined by the Secretary of Housing and Urban Development in consultation with the Secretary of the Interior. The class A stock shall have such par value and other characteristics as the Organization provides. The class A stock shall be vested with voting rights, each share being entitled to 1 vote. The class A stock is nontransferable only and it shall be surrendered to the Organization in the event the holder is no longer recognized as an Indian Tribe under this Act.

(b) CLASS B STOCK.—The Organization is authorized to issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Organization. When authorized to be issued, the class B stock shall be available for purchase by investors, and shall be entitled to such dividends as may be declared by the Board of Directors in accordance with subsection (c). The class B stock shall have such par value and other characteristics as the Organization provides. The class B stock shall be vested with voting rights, each share being entitled to 1 vote. The class B stock is transferable only on the books of the Organization.

(c) CHARGES AND FEES; EARNINGS.—

(1) The Organization may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the Organization should be within its income derived from such operations and that such operations would be fully self-supporting.

(2) All earnings from the operations of the Organization shall be annually transferred to the general surplus account of the Organization. At any time, funds in the general surplus account may, in the discretion of the Board of Directors, be transferred to reserves.

(d) CAPITAL DISTRIBUTIONS.—

(1) Except as provided in paragraph (2), the Organization may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors. All capital distributions shall be charged against the general surplus account of the Organization.

(2) The Organization may not make any capital distribution that would decrease the total capital (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) of the Organization to an amount less than the capital level for the Organization established under section 401, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

SEC. 302. OBLIGATIONS AND SECURITIES OF THE ORGANIZATION.

(a) OBLIGATIONS.—The Organization is authorized to borrow money, to give security, to pay interest or other return, and to issue upon the approval of the Secretary of the Treasury, notes, debentures, bonds, or other obligations having maturities and bearing such rate or rates of interest as may be determined by the Organization with the approval of the Secretary of the Treasury, provided that such borrowing and issuing of obligations qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933. Obligations issued by the Organization under this section shall not be obligations of, nor shall payment of the principal of or interest on such obligations be guaranteed by, the United States or any agency thereof, and the obligations shall so plainly state.

(b) RESALES OF QUALIFYING MORTGAGE LOANS.—The sale or other disposition by the Organization of qualifying mortgage loans under section 202(b)(1) shall be upon such terms and conditions relating to resale, repurchase, substitution, replacement or otherwise as the Organization may prescribe, except that the Organization may not guarantee or insure the payment of any mortgage loan sold under section 202(b)(1).

(c) SECURITIES BACKED BY NONQUALIFYING MORTGAGE LOANS.—Securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon nonqualifying mortgage loans held and set aside by the Organization under section 202(b)(2), may be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of interest as may be determined by the Organization with the approval of the Secretary of the Treasury provided that such issuing of securities qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

(d) PROHIBITIONS AND RESTRICTIONS; CREATION OF LIENS AND CHARGES; RANK AND PRIORITY; CAUSES OF ACTION TO ENFORCE; JURISDICTION; SERVICE OF PROCESS.—The Organization may, by regulation or by writing executed by the Organization, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Organization or of liens or charges upon property of the Organization, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Organization, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Organization or by writings executed by the Organization, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(e) VALIDITY OF PROVISIONS; VALIDITY OF RESTRICTIONS, PROHIBITIONS, LIENS, OR CHARGES.—The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

SEC. 303. LIMIT ON TOTAL ASSETS AND LIABILITIES.

The aggregate of—

(1) the total equity of the Organization, including all capital from any issuance of class B stock; and

(2) the total liabilities of the Organization, including all obligations issued or incurred by the Organization,

shall not at any time exceed $20,000,000.

TITLE IV—REGULATION, EXAMINATION, AND REPORTS

SEC. 401. REGULATION, EXAMINATION, AND REPORTS—OFHEO.

(a) EFFECTIVE DATE OF SECTION.—The provisions of this section shall be effective on the date the Secretary of Housing and Urban Development makes the determination in accordance with the provisions of section 202(b), that the Organization is authorized to purchase and sell mortgages and mortgage backed securities.

(b) IN GENERAL.—The Organization shall be subject to the regulatory authority of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Organization.

(c) DUTY OF DIRECTOR OF OFHEO.—The duty of the Director of the Office of Federal Housing Enterprise Oversight shall be to ensure that the Organization is adequately capitalized and operating safely as a Congressionally chartered body corporate.

(d) POWERS OF DIRECTOR OF OFHEO.—The Director of the Office of Federal Housing Enterprise Oversight shall have all of the exclusive powers granted the Director under section 1313 (b), (d), and (e) of the Housing and

Community Development Act of 1992, as determined by the Director to be necessary or appropriate to regulate the operations of the Organization.

(e) REPORTS TO DIRECTOR OF OFHEO.—

(1) The Organization shall submit to the Director of the Office of Federal Housing Enterprise Oversight annual reports of the financial condition and operations of the Organization which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

(2) The Organization shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Housing and Community Development Act of 1992.

(3) Each report shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Organization to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(f) FUNDING OFHEO OVERSIGHT.—

(1) The Director of the Office of Federal Housing Enterprise Oversight shall assess and collect from the Organization such amounts as are necessary to reimburse the Office for the reasonable costs and expenses of the activities undertaken by the Office to carry out the duty of the Director under paragraph (2), including the costs of examinations and overhead expenses.

(2) Annual assessments imposed by the Director shall be—

(A) imposed prior to October 1 of each year;

(B) collected at such time or times during each assessment year as determined necessary or appropriate by the Director;

(C) deposited into the Federal Housing Enterprises Oversight Fund established by section 1316(f) of the Housing and Community Development Act of 1992; and

(D) available, to the extent provided in appropriations Acts, for carrying out the Director's responsibilities under this section.

SEC. 402. REGULATION OF THE SECRETARY OF HUD.

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight as provided in section 401, the Secretary of Housing and Urban Development shall have general regulatory power over the Organization and shall make such rules and regulations applicable to the Organization as determined necessary or appropriate by the Secretary of Housing and Urban Development to ensure that the purposes of this Act are accomplished.

TITLE V—FORMATION OF NEW CORPORATION

SEC. 501. FORMATION OF NEW CORPORATION.

(a) IN GENERAL.—In order to continue the accomplishment of the purposes of this Act beyond the terms of the Federal charter of the Organization, the Board of Directors shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any Tribe, any State of the United States, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have whatever corporate powers and attributes permitted under the laws of the jurisdiction of its incorporation which the Board of Directors shall determine, in its business judgment, to be appropriate.

(c) USE OF NAFSO NAME PROHIBITED..—The new corporation may not use in any manner the names "Native American Financial Services Organization", "NAFSO" or any variation of either thereof.

SEC. 502. ADOPTION AND APPROVAL OF MERGER PLAN.

(a) IN GENERAL.—Not later than [10] years after the date of enactment of this Act, the Board of Directors shall prepare, adopt, and submit to the Secretary of Housing and Urban Development and the Secretary of the Treasury for approval, a plan for merging the Congressionally chartered Organization into the nonfederally chartered new corporation.

(b) DESIGNATED MERGER DATE.—

(1) The Board of Directors shall establish the designated merger date in the merger plan as a specific calendar date and time of day at which the merger of the Organization into the new corporation shall be effective.

(2) The Board of Directors may change the designated merger date in the merger plan by adopting an amended plan of merger.

(3) Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall be not later than 11 years after the date of enactment of this Act.

(4) The Board of Directors may adopt an amended plan of merger that designates a date later than 11 years after the date of enactment of this Act if the Board of Directors submits to both the Secretary of Housing and Urban Development and the Secretary of the Treasury a report—

(A) stating that an orderly merger of the Organization into the new corporation is not feasible before the last date designated by the Board of Directors;

(B) explaining why an orderly merger of the Organization into the new corporation is not feasible before the last date designated by the Board of Directors;

(C) describing the steps that have been taken to consummate an orderly merger of the Organization into the new corporation not later than 11 years after the date of enactment of this Act; and

(D) describing the steps that will be taken to consummate an orderly and timely merger of the Organization into the new corporation.

(5) In no case shall any date designated by the Board of Directors in an amended merger plan be later than 12 years after the date of enactment of this Act.

(6) In no case shall the consummation of an orderly and timely merger of the Organization into the new corporation occur later than 13 years after the date of enactment of this Act.

(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall not be effective until it has been approved by both the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If either the Secretary of Housing and Urban Development or the Secretary of the Treasury, or both, disapprove the merger plan or any amended merger plan, the disapproving Secretary or Secretaries shall so notify the Organization and indicate the reasons for that disapproval, and the Organization shall submit to the Secretary or Secretaries an amended merger plan responsive to such reasons within 30 days from the date of notification of disapproval.

(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—No approval or consent of the stockholders of the Organization shall be required to accomplish the merger of the Organization into the new corporation.

SEC. 503. CONSUMMATION OF MERGER.

The Board of Directors shall cause the merger of the Organization into the new corporation to be accomplished according to the merger plan approved by the Secretary of Housing and Urban Development and the Secretary of the Treasury and all applicable requirements of the law of the jurisdiction of incorporation of the new corporation.

SEC. 504. TRANSITION.

(a) CONTINUATION OF RIGHTS, DUTIES, AND RESTRICTIONS.—Except as provided in this section, the Organization shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and be subject to all of the limitations and restrictions, set forth in this Act.

(b) COLLATERALIZATION OF OUTSTANDING OBLIGATIONS.—The Organization shall provide for all debt obligations of the Organization which are outstanding on the day before the designated merger date to be secured as to principal and interest by obligations of the United States held in trust for the holders of such obligations. The collateralization and the trust shall be subject to such requirements, terms and conditions as the Secretary of the Treasury deems necessary or appropriate.

(c) ISSUANCE OF NEW OBLIGATIONS DURING TRANSITION PERIOD.—As needed to carry out the purposes for which it was formed, the Organization may, during the transition period, continue to issue obligations under section 303, provided that any new obligation issued during the transition period shall mature before the designated merger date.

SEC. 505. EFFECT OF MERGER.

(a) TRANSFER OF ASSETS AND LIABILITIES.—

(1) At the designated merger date, all property, real, personal, and mixed, and all debts due on whatever account, and all other courses of action and all and every other interest of or belonging to or due to the Organization shall be transferred to and vested in the new corporation without further act or deed, and title to any property, whether real, personal, or mixed, shall not in any way be impaired by reason of the merger.

(2) At the designated merger date, the new corporation shall be responsible and liable for all obligations and liabilities of the Organization and neither the rights of creditors nor any liens upon the property of the Organization shall be impaired by the merger.

(b) TERMINATION OF THE ORGANIZATION AND ITS FEDERAL CHARTER.—At the designated merger date, the surviving corporation of the merger shall be the new corporation, the Federal charter of the Organization shall terminate, and the separate existence of the Organization shall terminate.

(c) REFERENCES TO THE ORGANIZATION IN ACTS OF CONGRESS.—From and after the designated merger date, any reference to the Organization in any Act of Congress [or in any rule or regulation promulgated under any Act of Congress] shall not be deemed to refer to the new corporation.

(d) SAVINGS CLAUSE.—

(1) The merger of the Organization into the new corporation shall not abate any proceeding commenced by or against the Organization before the designated merger date, except that the new corporation shall be substituted for the Organization as a party to any such proceeding as of the designated merger date.

(2) All contracts and agreements to which the Organization is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Organization as a

party to those contracts and agreements as of the designated merger date.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN FINANCIAL INSTITUTIONS.

There is authorized to be appropriated, without fiscal year limitation, to the Fund $20,000,000 to provide financial assistance to Native American Financial Institutions. To the extent that a Native American Financial Institution receives a portion of such appropriation, such monies shall not be considered as matching funds required of the Native American Financial Institution under the Community Development Banking and Financial Institutions Act.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS FOR ORGANIZATION.

The Secretary of Housing and Urban Development is authorized, to the extent and in the amounts provided in advance in appropriation Acts, to provide up to $10,000,000 to the Fund for the funding of a cooperative agreement to be entered into by the Fund and the Organization for technical assistance and other services to be provided by the Organization to the Native American Financial Institutions.

THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, September 22, 1994.

Hon. ALBERT GORE, Jr.,
President U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you the "Native American Financial Services Organization Act of 1994." For the past several months, the Department of Housing and Urban Development has been working with the Departments of the Treasury, the Interior, Agriculture and Veterans' Affairs, in consultation with the Native American Community to develop this bill.

Based upon the findings and recommendations of the Commission on American Indian, Alaska Native and Native Hawaiian Housing, established by Public Law 101–235, HUD believes that housing shortages and deplorable living conditions have reached crisis proportions in Native American communities throughout the United States.

Historically, financing for most Native American housing and economic development has been provided through government programs. These federal programs, however, do not fully meet the needs of Native American communities. Furthermore, there are few financial institutions that provide financial services to these communities.

To begin to address this crisis, the Department is proposing this legislation to improve the conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization. This legislation would establish a limited government-chartered corporation to be known as the Native American Financial Services Organization (NAFSO). A Federal grant would capitalize the federally-chartered, for-profit NAFSO through a cooperative agreement. Under the agreement, NAFSO could assist Native Americans in creating local financial institutions to address their capital needs. The Federal NAFSO charter would cease to exist upon a designated date, by which time it would be merged into a private corporation. The legislation also provides for an "asset cap" that is designed to limit the size of the NAFSO to $20 million. It is anticipated that the NAFSO will be privatized in order to grow beyond this limit. It also is anticipated that tribal contributions would assist the NAFSO in becoming self-sufficient over time.

The governance of the NAFSO would be vested in a Board of Directors that would be representative of the Native American community. Shares would be equitably distributed among federally-recognized tribes; the Board could elect to distribute additional shares on an investment basis.

It is the purpose of this Act—

(1) To help serve the mortgage, economic development, and other lending needs of Native Americans by assisting in the establishment and organization of Native American community lending institutions that would be called Native American Financial Institutions (NAFIs); NAFIs would be any type of financial institution, including community banks, credit unions and savings banks, and therefore could provide a wide range of financial services;

(2) To develop and provide financial expertise and technical assistance to NAFIs, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination;

(3) To promote access to mortgage and economic development credit throughout Native American communities by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through NAFIs;

(4) To direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through NAFIs; and,

(5) To provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, NAFIs, and other borrowers by increasing the liquidity of such mortgage investments and improving the distribution of investment capital available for such residential mortgage financing.

At the outset, it is contemplated that the NAFSO itself will not purchase and sell Native American mortgages originated by the NAFIs, but rather will work with the existing secondary market for residential mortgages to increase the liquidity for such investment. However, if it is later determined that the secondary market is not meeting reasonable mortgage purchase goals established by this department, the NAFSO will be authorized to purchase and sell such mortgages.

The Secretary of Housing and Urban Development would be authorized to provide up to $10 million, subject to appropriations, for the funding of a cooperative agreement for technical assistance and other services to be provided by the NAFSO to NAFIs. In addition, there would be authorized, without fiscal year limitation, $20 million to provide financial assistance through the NAFSO to NAFIs. Funding would be made available from the Community Development Financial Institution (CDFI) fund. NAFIs are not eligible for additional funding under the CDFI fund if the NAFI elects to receive funding under this Act.

This legislation further provides that the Office of Federal Housing Enterprise Oversight would regulate matters pertaining to the financial safety and soundness of the NAFSO in the event that the NAFSO is authorized to purchase and sell Native American mortgages and the Department of Housing and Urban Development would have general regulatory authority.

The "Native American Financial Services Act of 1994" would provide financial independence to the Native American community that has never been enjoyed before. It provides the structure to marry private financial resources with Federal and tribal resources in a way that benefits all parties. The creation of the NAFSO would have the ripple effect of opening avenues to economic development and housing that have not been available heretofore.

The Office of Management and Budget has advised that it has no objection to the transmittal of this legislation to Congress.

I request that the bill be referred to the appropriate committee and urge its early consideration. I am sending a similar letter to the Speaker of the House of Representatives, Thomas S. Foley.

Sincerely,

HENRY G. CISNEROS.●

By Mr. DECONCINI:

S. 2488. To amend chapter 11 of title 35, United States Code, to provide for early publication of patent applications, to amend chapter 14 of such title to provide provisional rights for the period of time between early publication and patent grant, and to amend chapter 10 of such title to provide a prior art effect for published applications; to the Committee on the Judiciary.

PATENT APPLICATION PUBLICATION ACT

● Mr. DECONCINI. Mr. President, at the request of the administration, today I am introducing the Patent Application Publication Act of 1994. This bill provides for the publication of patent applications that are pending 18 months after their filing.

Under current U.S. law, all applications for patents are kept in confidence by the Patent Trademark Office. Publication does not occur until the patent is actually granted. This can result in the situation where inventors commit substantial resources to develop an invention based on an incomplete, erroneous assessment of its patentability. In turn, this leads to disruptions in the marketplace because technology that is regarded as commonplace is actually the subject of a pending patent, and users of such technology must either negotiate a license with the patentee or stop using the technology altogether.

All of the major patent system throughout the world, with the exception of the United States, publish applications 18 months from the earliest effective filing date. Thus, in an age where worldwide patent protection is becoming increasingly important, the current system places U.S. inventors at a clear disadvantage. For example, an invention that is the subject of a patent application in Japan will be published at 18 months. Inventors reviewing the Japanese patent filings will have the benefit of the early disclosure in Japan. Meanwhile, in the United States, domestic inventors will not have the benefit of an English language publication of the technology disclosed in an application for a patent, until the

patent is actually issued. This situation provides foreign inventors with a clear advantage.

An 18 month publication law will provide American inventors with access to leading technology of all types. In addition, this law will save resources by preventing the duplication of research, signaling promising areas of research, and indicating which fields or research topics are begin pursued by others.

Under this bill, inventors will be given provisional rights to obtain compensation for any use of the invention disclosed in the application for patent for the time period from publication to grant. Once the patent is issued, the patentee will have the right to obtain a reasonable royalty from any person who uses, makes, sells or imports an invention or process in the United States that was claimed in a published patent application.

Mr. President, I am concerned about the costs associated with this legislation. It is my understanding that the annual cost of early publication will be approximately $12.6 million. Since the PTO is totally user fee funded and receives no taxpayer dollars, these costs will be borne by users of the PTO. I am hopeful the PTO will work closely with the patent community to identify the best way to cover these costs. Furthermore, it is incumbent upon the Congress to ensure that the PTO only raises fees in an amount necessary to pay for publication.

It has been a great pleasure to serve as chairman of the Patents, Copyrights and Trademarks Subcommittee for the last 8 years. Strong intellectual property protection is paramount for America to maintain its leadership role in world markets. I urge the PTO to continue to serve the interests of its users and to look out for the best interests of America's inventors.

Mr. President, I ask unanimous consent that the full text of the legislation be printed in the RECORD.

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

S. 2488

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 "Patent Application Publication Act of 1994".

SEC. 2. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1) an application for patent, published under section 122(b), by another filed in the United States before the invention thereof by the applicant for patent; or

"(2) a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by applicant for patent, or".

SEC. 3. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—The second paragraph of section 119 of title 35, United States Code, is amended to read as follows:

"No application for patent shall be entitled to this right of priority unless a claim therefor and a certified copy of the original foreign application, specification and drawings upon which it is based are filed in the Patent and Trademark Office at such time during the pendency of the application as required by the Commissioner. The Commissioner may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The certification of the original foreign application, specification and drawings shall be made by the patent office of the foreign country in which filed and show the date of the application and of the filing of the specification and other papers. The Commissioner may require a translation of the papers filed if not in the English language and such other information as he deems necessary.

(b) IN THE UNITED STATES.—Section 120 of title 35, United States Code, is amended by adding at the end thereof the following: "The Commissioner may determine the time period within which an amendment containing the specific reference to the earlier filed application shall be submitted.".

SEC. 4. EARLY PUBLICATION.

(a) IN GENERAL.—Section 122 of title 35, United States Code, is amended to read as follows:

"§ 122. Confidential status of applications; publication of patent applications

"(a) Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(b) Each application for patent shall be published, in accordance with procedures as determined by the Commissioner, as soon as possible after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title, except that an application that is no longer pending shall not be published and an application subject to a secrecy order under section 181 of this title shall not be published. An application not subject to a secrecy order under section 181 of this title may be published earlier than the expiration date described in the preceding sentence at the request of the applicant. No information concerning published patent applications shall be made available to the public except as the Commissioner shall determine. Notwithstanding any other provision of law, a determination by the Commissioner to release or not to release information concerning a published patent application shall be final and nonreviewable.".

(b) COST RECOVERY FOR PUBLICATION.—The Commissioner shall recover the cost of early publication required by the amendment made under subsection (a) by adjusting the filing, issue and maintenance fees, by charging a separate publication fee, or by any combination of these methods.

SEC. 5. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) by inserting "(a)" before "Every patent"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period from publication of the application for such patent under subsection 122(b) of this title until issue of that patent—

"(A)(i) makes, uses, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice or knowledge of the published patent application.

"(2) The right to obtain a reasonable royalty shall not be available under this subsection unless the invention claimed in the patent is substantially identical to the invention as claimed in the published patent application.".

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 12 of title 35, United States Code, is amended by inserting "published applications and" before "patents".

(2) Section 13 of title 35, United States Code, is amended by inserting "published applications and" before "patents".

(3) The table of sections for chapter 11 of title 35, United States Code, is amended in the item relating to section 122 by inserting "; publication of patent applications" after "applications".

(4) The table of sections for chapter 14 of title 35, United States Code, is amended in the item relating to section 154 by inserting "; provisional rights" after "patent".

(5) Section 181 of title 35, United States Code, is amended—

(A) in the first paragraph—

(i) by inserting "by the publication of an application or" after "disclosure"; and

(ii) by inserting "the publication of an application or" after "withhold";

(B) in the second paragraph by inserting "by the publication of an application or" after "disclosure of an invention";

(C) in the third paragraph—

(i) by inserting "by the publication of the application or" after "disclosure of the invention"; and

(ii) by inserting "the publication of the application or" after "withhold"; and

(D) in the fourth paragraph of the first sentence by inserting "the publication of an application or" after "kept secret and".

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), sections 2 through 6 shall take effect on January 1, 1996 and shall apply to all national applications filed in the United States on or after such date.

(b) PROVISIONAL RIGHTS.—The amendment made by section 5 of this Act shall only apply to applications subject to a term beginning on the date on which the patent issues and ending—

(1) 20 years after the date on which the application for patent was filed in the United States; or

(2) if the application contains a specific reference to an earlier filed application or applications under sections 120, 121 or 365(c) of title 35, United States Code, 20 years after the date on which the earliest such application was filed.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. AKAKA, Mr.

BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. CAMPBELL, Mr. CHAFEE, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. INOUYE, Mr. JEFFORDS, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LIEBERMAN, Mr. MACK, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WELLSTONE, and Mr. WOFFORD):

S. 2489. A bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes; to the Committee on Labor and Human Resources.

THE RYAN WHITE CARE REAUTHORIZATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to once again join my colleague Senator HATCH, and a bipartisan coalition of 47 Senators in introducing the Ryan White CARE Reauthorization Act of 1994.

The CARE Act has been a lifeline of hope and care to individuals and families with HIV disease. The Act has helped to develop and operate community-based systems of health care and support services in urban and rural communities across this country.

This reauthorization will extend this vitally important program for an additional 5 years, and take what is good and make it better. Today the House of Representatives introduced an identical bill, and I hope my colleagues will support its swift enactment.

I ask unanimous consent that the bill and supporting materials be printed in the RECORD.

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

S. 2489

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 "Ryan White CARE Reauthorization Act of 1994".

SEC. 2. REFERENCES.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.).

SEC. 3. AMENDMENTS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Section 2601 (42 U.S.C. 300ff–11) is amended by adding at the end thereof the following new subsection:

"(c) POPULATION OF ELIGIBLE AREAS.—The Secretary may not make a grant to an eligible area under subsection (a) after the date of enactment of this subsection unless the area has a population of at least 500,000 individuals, except that this subsection shall not apply to areas that are eligible as of March 31, 1994. For purposes of eligibility under this title, the boundaries of each metropolitan area shall be those in effect in fiscal year 1994.".

(b) EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES.—

(1) HEALTH SERVICES PLANNING COUNCIL.—Subsection (b) of section 2602 (42 U.S.C. 300ff–12(b)) is amended—

(A) in paragraph (1), by striking "include" and all that follows through the end thereof, and inserting "be reflective of the demographics of the HIV epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups.";

(B) in paragraph (2), by adding at the end thereof the following new subparagraph:

"(C) CHAIRPERSON.—A planning council may not be chaired solely by an employee of the grantee.";

(C) in paragraph (3)—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting ", and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs; and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(D) participate in the development of the Statewide coordinated statement of need initiated by the State health department.";

(D) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(E) by inserting after paragraph (1), the following new paragraph:

"(2) REPRESENTATION.—The HIV health services planning council shall include representatives of—

"(A) health care providers, including federally qualified health centers;

"(B) community-based organizations serving affected populations and AIDS service organizations;

"(C) social service providers;

"(D) mental health and substance abuse providers;

"(E) local public health agencies;

"(F) hospital planning agencies or health care planning agencies;

"(G) affected communities, including people of color, women, and gay and bisexual men;

"(H) individuals with HIV or AIDS;

"(I) nonelected community leaders;

"(J) State government (including the State medicaid agency);

"(K) grantees under subpart II of part C;

"(L) grantees under section 2671, or, if none are operating in the area, pediatric, youth, and women's service organizations operating in the area; and

"(M) grantees under other Federal HIV programs.".

(2) DISTRIBUTION OF GRANTS.—Section 2603 (42 U.S.C. 300ff–13) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) by striking "Not later than—" and all that follows through "the Secretary shall" and inserting the following: "Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall"; and

(II) by inserting "or the provisions of subsection (a)(3)(D)" after "section 2605(c)";

(ii) in paragraph (3)(A)(ii)—

(I) by striking "product of 3" in subclause (I), and inserting "product of 9"; and

(II) by striking "equal to the product" in subclause (II), and inserting "amount equal to twice the product";

(iii) in paragraph (3)(B)(i), by striking "cumulative number of cases" and inserting "for the 10 years prior to the fiscal year in question";

(iv) in paragraph (3)(C)—

(I) by striking "cumulative cases" in clause (i), and inserting "the number of cases reported and confirmed for the 10 years prior to the fiscal year in question"; and

(II) by striking "cumulative such cases" in clause (ii), and inserting "the number of cases reported and confirmed for the 10 years prior to the fiscal year in question"; and

(v) by adding at the end of paragraph (3), the following new subparagraph:

"(D) MINIMUM AMOUNT.—No eligible area shall receive an amount less than that awarded under subsection (a) to such area in fiscal year 1995, except for cause, as determined by the Secretary based on a finding of fraud or an egregious violation by the grantee of the provisions of this Act."; and

(B) in subsection (b)(1)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

"(F) demonstrates the inclusiveness of the planning council membership, with particular emphasis on affected communities and individuals with HIV disease;

"(G) demonstrates the manner in which the proposed services are consistent with the Statewide coordinated statement of need.".

(3) USE OF AMOUNTS.—Section 2604 (42 U.S.C. 300ff–14) is amended—

(A) in subsection (b)(1)(A), by inserting "treatment education and prophylactic treatment for opportunistic infections," after "treatment services,"; and

(B) in subsection (e) by striking "reporting, and program oversight functions" and inserting "reporting, and the assessment of program effectiveness".

(4) APPLICATION.—Section 2605(a) (42 U.S.C. 300ff–15(a)) is amended—

(A) in paragraph (1)(B), by striking "1-year period" and all that follows through "eligible area" and inserting "preceding fiscal year";

(B) in paragraph (4), by striking "and" at the end thereof;

(C) in paragraph (5), by striking the period at the end thereof and inserting "; and"; and

(D) by adding at the end thereof the following new paragraph:

"(6) that the applicant has participated, or will agree to participate, in the Statewide coordinated statement of need process where it has been initiated by the State, and ensure that the services provided under the comprehensive plan are consistent with the Statewide coordinated statement of need.".

(5) TECHNICAL ASSISTANCE.—Section 2606 (42 U.S.C. 300ff–16) is amended—

(A) by striking "may" and inserting "shall";

(B) by inserting after "technical assistance" the following: ", including peer based assistance to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and,"; and

(C) by adding at the end thereof the following new sentences: "The Administrator may make planning grants available to metropolitan areas projected to be eligible for

funding under section 2601 in the following fiscal year. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2608 may be used to carry out this section.".

(6) AUTHORIZATION OF APPROPRIATIONS.—Section 2608 (42 U.S.C. 300ff-18) is amended by striking "$275,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(b) CARE GRANT PROGRAM.—

(1) INFANTS AND WOMEN.—Subsection (b) of section 2612 (42 U.S.C. 300ff-22) is amended to read as follows:

"(b) INFANTS AND WOMEN.—For each State in which the infants, children, adolescents, and women comprise greater than 10 percent of the AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention for the 2 most recent fiscal years in such State, not less than 15 percent of funds allocated under this part shall be used to provide health and support services to infants, children, women, and families with HIV disease. With respect to a State in which infants, children, youth, and women comprise less than 10 percent of AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention for the 2 most recent fiscal years in such State, planning activities under part B in such State shall assess unmet needs and address the service needs of such populations in their applications.".

(2) HIV CARE CONSORTIA.—Section 2613 (42 U.S.C. 300ff-23) is amended—

(A) in subsection (a)(2)(A), by inserting "prophylactic treatment for opportunistic infections, treatment education," after "monitoring,";

(B) in subsection (c)—

(i) in subparagraph (C) of paragraph (1), by inserting before "care" "and youth centered"; and

(ii) in paragraph (2)—

(I) in clause (ii) of subparagraph (A), by striking "served; and" and inserting "served;";

(II) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(III) by adding after subparagraph (B), the following new subparagraph:

"(C) representatives of organizations with a history of serving children, youth, and women and operating in the community to be served."; and

(C) in subsection (d) to read as follows:

"(d) DEFINITION.—As used in this part, the terms 'family centered care' and 'youth centered care' mean the system of services described in this section that is targeted specifically to the special needs of infants, children (including those orphaned by the AIDS epidemic), youth, women, and families. Family centered and youth centered care shall be based on a partnership among parents, extended family members, children and youth, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care.".

(3) PROVISION OF TREATMENTS.—Section 2616 (42 U.S.C. 300ff-26) is amended by striking subsection (c) and inserting the following new subsections:

"(c) STANDARDS FOR TREATMENT PROGRAMS.—In carrying out this section, the Secretary shall—

"(1) review the current status of State drug reimbursement programs and assess barriers to the expended availability of prophylactic treatments for opportunistic infections (including active tuberculosis); and

"(2) establish, in consultation with States, providers, and affected communities, a recommended minimum formulary.

In carrying out paragraph (2), the Secretary shall identify those treatments in the recommended minimum formulary that are for the prevention of opportunistic infections (including the prevention of active tuberculosis).

"(d) STATE DUTIES.—

"(1) IN GENERAL.—In implementing subsection (a), States shall document the progress made in making treatments described in subsection (c)(2) available to individuals eligible for assistance under this section, and to develop plans to implement fully the recommended minimum formulary.

"(2) OTHER MECHANISMS FOR PROVIDING TREATMENTS.—In meeting the standards of the recommended minimum formulary developed under subsection (c), a State may identify other mechanisms such as consortia and public programs for providing such treatments to individuals with HIV.".

(4) STATE APPLICATION.—Section 2617(b) (42 U.S.C. 300ff-27(b)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end thereof; and

(ii) by adding at the end thereof the following new subparagraph:

"(C) a description of how the allocation and utilization of resources are consistent with the Statewide coordinated statement of need (including the needs of children, adolescents, and women) developed in partnership with other grantees in the State that receive funding under this title;";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2), the following new paragraph:

"(3) the public health agency administering the grant for the State shall convene a meeting at least annually of representatives of grantees funded under this title (including HIV health services planning councils, early intervention programs, children, youth and family service projects, special projects of national significance, and HIV care consortia) and other providers (including federally qualified health centers) and public agency representatives within the State currently delivering HIV services to affected communities for the purpose of developing a Statewide coordinated statement of need. The State shall not be required to finance attendance at such meetings.".

(5) DISTRIBUTION OF FUNDS.—Section 2618 (42 U.S.C. 300ff-28) is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively;

(C) by amending subsection (a), as so redesignated, to read as follows:

"(a) AMOUNT OF GRANT.—

"(1) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Subject to the amount made available pursuant to section 2620, the amount of a grant to be made under this part for each of the 50 States, the District of Columbia, and Puerto Rico, shall be the greater of—

"(i) $250,000; and

"(ii) an amount determined under paragraph (2).

"(B) VIRGIN ISLANDS.—The United States Virgin Islands shall be eligible for an allotment under subparagraph (A) if the Secretary certifies that the Virgin Islands has a program in place to effectively utilize additional resources provided under such allotment.

"(C) SUPPLEMENTAL ENHANCEMENT GRANTS.—

"(i) IN GENERAL.—The Secretary shall award supplemental grants to eligible entities to enhance community-based care, treatment, and supportive services through the development and operation of consortia and innovative approaches.

"(ii) ELIGIBILITY.—A State shall be eligible for—

"(I) a tier I supplemental grant in the amount of $500,000 if the number of AIDS cases (in the State) reported to and confirmed by the Centers for Disease Control and Prevention total not less than 1500 cases for the 10 years prior to the fiscal year for which the grant is to be awarded and the State does not contain a metropolitan area whose chief elected official is a grantee for funding under part A; or

"(II) a tier II supplemental grant in the amount of $250,000 if the number of AIDS cases (in the State) reported to and confirmed by the Centers for Disease Control and Prevention total less than 1500 cases for the 10 years prior to the fiscal year for which the grant is to be awarded and the State does not contain a metropolitan area whose chief elected official is a grantee under part A and whose formula grant exceeds the minimum allotment described in subparagraph (A)(i).

"(iii) REDUCTION.—A State that receives a grant under clause (ii)(I), or which would have been eligible to receive such a grant in fiscal year 1995, that subsequently contains a metropolitan area that becomes eligible for funding under part A, shall be subject to a 2-year phased reduction in the amount of the grant under clause (ii)(I) as follows:

"(I) With respect to the first year in which the metropolitan area receives funds under part A, the State would receive $500,000 under clause (ii)(I).

"(II) With respect to the second year in which the metropolitan area receives funds under part A, the State would receive $250,000 under clause (ii)(I).

"(III) The State would not be eligible for funds under this subparagraph in years subsequent to the year described in subclause (II).

"(iv) TERMS.—All terms and conditions contained under subsections (b) and (c) of section 2617 shall apply to funds received under this subsection.

"(2) DETERMINATION.—

"(A) FORMULA.—The amount referred to in paragraph (1)(A) shall be the product of—

"(i) an amount equal to the amount appropriated under section 2620 for the fiscal year involved less the amount needed to carry out subparagraph (B); and

"(ii) the ratio of the distribution factor for the State or territory to the sum of the distribution factors for all the States or territories.

"(B) DISTRIBUTION FACTOR.—As used in subparagraph (A), the term 'distribution factor' means the product of—

"(i) the number of cases of acquired immune deficiency syndrome in the State or territory, as indicated by the number of cases reported to and confirmed by the Centers for Disease Control and Prevention for the 2 most recent fiscal years for which such data are available; and

"(ii) the cube root of the ratio (based on the most recent available data) of—

"(I) the average per capita income of individuals in the United States (including territories); to

"(II) the average per capita income of individuals in the State or territory.";

(D) in subsection (b), as so redesignated—

79-059 O—97 Vol. 140 (Pt. 19) 30

(i) by amending paragraphs (3) and (4) to read as follows:

"(3) PLANNING AND EVALUATIONS.—Subject to paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

"(4) ADMINISTRATION.—Subject to paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.";

(ii) by redesignating paragraph (5) as paragraph (6); and

(iii) by inserting after paragraph (4), the following new paragraph (5):

"(5) LIMITATION ON USE OF FUNDS.—A State may not use more than a total of 15 percent of amounts received under a grant awarded under this part for the purposes described in paragraphs (3) and (4)."

(6) TECHNICAL ASSISTANCE.—Section 2619 (42 U.S.C. 300ff-29) is amended—

(A) by striking "may" and inserting "shall"; and

(B) by inserting before the period the following: ", including technical assistance for the development and implementation of Statewide coordinated statements of need".

(7) AUTHORIZATION OF APPROPRIATIONS.—Section 2620 (42 U.S.C. 300ff-30), by striking "$275,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(8) GRIEVANCE PROCEDURES AND COORDINATION.—Part B of title XXVI (42 U.S.C. 300ff-21) is amended by adding at the end thereof the following new sections:

"SEC. 2621. GRIEVANCE PROCEDURES.

"Not later than 90 days after the date of enactment of this section, the Administration, in consultation with affected parties, shall establish grievance procedures, specific to each part of this title, to address allegations of egregious violations of each such part or the intent of the provisions of each such part. Such procedures shall include an appropriate enforcement mechanism.

"SEC. 2622. COORDINATION.

"The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, and the Substance Abuse and Mental Health Services Administration coordinate the planning and implementation of Federal HIV programs in order to facilitate the development of a complete continuum of HIV-related services for individuals with HIV disease and those at risk of such disease. The Secretary shall periodically prepare and submit to the relevant committees of Congress a report concerning such coordination efforts at the Federal, State, and local levels as well as the existence of Federal barriers to HIV program integration.".

(c) EARLY INTERVENTION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 2655 (42 U.S.C. 300ff-55) is amended by striking "$75,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(2) REQUIRED AGREEMENTS.—Section 2664(g) (42 U.S.C. 300ff-64(g)) is amended—

(A) in paragraph (2), by striking "and" at the end thereof;

(B) in paragraph (3)—

(i) by striking "5 percent" and inserting "10 percent including planning, evaluation and technical assistance"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the applicant will submit evidence that the proposed program is consistent with the Statewide coordinated statement of need and agree to participate in the ongoing revision of such statement of need.".

(d) GENERAL PROVISIONS.—Section 2671 (42 U.S.C. 300ff-71) is amended—

(1) by amending the title to read as follows:

"SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR CHILDREN, YOUTH, WOMEN, AND FAMILIES.";

(2) in subsection (a)—

(i) by striking "demonstration";

(ii) by striking "and the Director" and inserting ", in coordination with the Director";

(iii) by striking paragraph (1), and inserting the following new paragraph:

"(1) supporting, at the health facilities of such entities, access to and linkages with clinical research on therapies for pediatric patients, youth, and women with HIV disease, and special initiatives related to clinical research and care findings;"; and

(iv) by amending paragraph (2) to read as follows:

"(2) providing and coordinating outpatient health care services and systems of care, directly or through contractual arrangements, to children, youth, and women and their families.";

(3) in subsection (c)—

(A) in paragraph (1), to read as follows:

"(1) LINKAGES TO RESEARCH.—The Secretary may not make a grant to an applicant under subsection (a) unless the applicant enters into an agreement with an appropriately qualified entity with expertise in biomedical or behavioral research to enhance voluntary access to research."; and

(B) in paragraph (2)—

(i) by inserting after "through the" the following: "Director of the Administrator of the Health Resources and Services Administration, and in coordination with the";

(ii) in subparagraph (A), by striking "; and" and inserting a semicolon;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by inserting after subparagraph (B), the following new subparagraph:

"(C) may provide training and technical assistance including peer-based assistance through the Health Resources and Services Administration.";

(4) in subsections (d), (e), and (f), by striking "pediatric patient" each place such term appears and inserting "children and youth";

(5) in subsection (f), by inserting before the period the following: ", including coordination and access to child welfare services, support services, kinship care services, and other appropriate services for orphans of the AIDS epidemic.";

(6) in subsection (h), to read as follows:

"(h) COORDINATION.—The Secretary may not make a grant under subsection (c) unless the applicant submits evidence that the proposed program is consistent with the Statewide coordinated statement of need and the applicant agrees to annually participate in the ongoing revision process of such statement of need."; and

(7) in subsection (j), by striking "$20,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(e) SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.—Title XXVI is amended by adding at the end, the following new part:

"PART F—SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE

"SEC. 2701. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, and C of this title for each fiscal year, the Secretary shall use the greater of $20,000,000 or 3 percent of such amount appropriated under each such part, but not to exceed $25,000,000, to administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

"(b) GRANTS.—The Secretary shall award grants under subsection (a) based on—

"(1) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

"(2) the innovative nature of the proposed activity; and

"(3) the potential replicability of the proposed activity in other similar localities or nationally.

"(c) SPECIAL PROJECTS.—Special projects of national significance may include the development and assessment of innovative service delivery models that are designed to—

"(1) address the needs of special populations; and

"(2) assist in the development of essential community-based service delivery infrastructure.

"(d) SPECIAL POPULATIONS.—Special projects of national significance may include the delivery of HIV health care and support services to traditionally underserved populations including—

"(1) individuals and families with HIV disease living in rural communities;

"(2) adolescents with HIV disease;

"(3) Indian individuals and families with HIV disease;

"(4) homeless individuals and families with HIV disease;

"(5) hemophiliacs with HIV disease; and

"(6) incarcerated individuals with HIV disease.

"(e) SERVICE DEVELOPMENT GRANTS.—Special projects of national significance may include the development of model approaches to delivering HIV care and support services including—

"(1) programs that support family-based care networks critical to the delivery of care in minority communities;

"(2) programs that build organizational capacity in disenfranchised communities;

"(3) programs designed to prepare AIDS service organizations and grantees under this title for operation within the changing health care environment; and

"(4) programs designed to integrate the delivery of mental health and substance abuse treatment with HIV services.

"(f) DISTRIBUTION OF FUNDS.—Fifty percent of the funds made available under this section shall be provided to geographic areas that are not eligible for funds under section 2603 except that existing grantees shall continue to receive funding for the length of the project period.

"(g) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the Statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

"(h) REPLICATION.—The Secretary shall make information concerning successful

models developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance from grantees funded under this part.".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall become effective on October 1, 1995.

(b) ELIGIBLE AREAS.—The amendments made by subsections (a) and (b)(4)(A) of section 3 become effective on the date of enactment of this Act.

THE RYAN WHITE FOUNDATION,
TEENS AND HIV/AIDS,
Indianapolis, IN, September 26, 1994.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The Ryan White CARE Act was named for my son whose battle against AIDS taught Americans valuable lessons about this horrible disease and about courage in general. His brave legacy lives on in the programs funded by this legislation—programs which provide care to increasing numbers of people from all walks of life living with HIV/AIDS across America.

Since Ryan's death, I have travelled across the United States educating people about AIDS. I have been so touched by the many people living with HIV/AIDS and their loved ones who have told me that without the Ryan White care services they would not survive. They are just a fraction of the ten of thousands of Americans depending on the Ryan White CARE Act for medicines, medical care, housing and a myriad of support services to keep them alive and well. Without the programs funded under the Ryan White CARE Act, many Americans would be forced into expensive and unnecessary hospitalizations and a diminished quality of life.

In the coming few days, the Congress has the opportunity to honor my son Ryan's legacy—and continue its commitment to fighting the AIDS epidemic—by reauthorizing the Ryan White CARE Act before adjournment. Failure to reauthorize the CARE Act now could jeopardize the fragile lives of people living with HIV/AIDS and the network of services which provide for their care.

I ask for your leadership. I urge you to renew your commitment to my son, Ryan, and to reauthorize the CARE Act now.

With gratitude and respect,
Sincerely,

Jeanne White.

FAMILY AIDS NETWORK, INC.,
Washington, DC, September 30, 1994.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: In the upcoming few days you and your colleagues have an opportunity to reauthorize funding for the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act. Please act swiftly and approve reauthorization before adjournment.

During the past few months communities most affected by the AIDS epidemic have suffered not only the physical consequences of the virus, but also a withering emotional loss. Hope—which soared a few years ago when funds were increased and leadership appeared to be growing stronger—has disintegrated. Expectations for support and commitment from either the government or the private sector have faded. With no promise of a cure, and no belief that a vaccine is on the horizon, the growing sentiment is one of helplessness.

While the numbers of those infected continues to mount, our national resolve to attack this epidemic must be rekindled. And I believe you have an opportunity to do just that.

Please let all your colleagues know that—for those of us who need to explain this epidemic not only on the public stage but also in private, to our children, and sometimes in the night to ourselves—a symbol of hope is desperately needed. Prompt reauthorization would signal that, while we may still be pilgrims on the road to AIDS, we are not walking alone. And it would provide tangible benefits for those most in need.

I salute your efforts on behalf of all who are HIV-infected, and all who love us. Since we are unable to conquer the virus, we are grateful when others give us reason for hope.

Sincerely,

Mary D. Fisher.

PEDIATRIC AIDS COALITION, ADVOCATES FOR CHILDREN, ADOLESCENTS AND THEIR FAMILIES,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: The Pediatric AIDS Coalition, comprised of 33 national organizations advocating on behalf of children, adolescents, women and their families affected by HIV and AIDS, is committed to ensuring that the unique needs of these populations are addressed through federal legislation. The Coalition supports the accelerated reauthorization of the Ryan White AIDS C.A.R.E. Act, and commends your leadership in seeking passage of this bill this year.

The Ryan White C.A.R.E. Act provides funding for programs and services that positively affect women, children, and adolescents. Language in your bill which creates more opportunities for organizations representing women, infants, children, and adolescents to participate in the Title II consortia, and increases the reporting requirements regarding the 15% set-aside, are improvements over existing law. We are also pleased with the addition of language which encourages cooperation and collaboration among grantees from all four titles, as well as among care providers outside of Ryan White.

On behalf of the Coalition, we offer our assistance in working together to reauthorize the Ryan White AIDS C.A.R.E. Act this year in order to better serve women, infants, children, adolescents, and their families affected by HIV/AIDS.

Sincerely,

DAMIAN THORMAN,
American Academy of Pediatrics.
LAURA FELDMAN,
National Association of Children's Hospitals and Related Institutions.
DAVID HARVEY,
AIDS Policy Center for Children, Youth & Families.

CITIES ADVOCATING EMERGENCY AIDS RELIEF,
September 30, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR MR. CHAIRMAN: Cities Advocating Emergency AIDS Relief is a nationwide coalition representing the needs of community HIV service planning councils established under Title I of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990. Our planning council members include community AIDS organizations, people living with HIV disease, civic leaders, business leaders, religious organizations, mayoral representatives, local public health officials, drug treatment providers, mental health providers and representatives from diverse communities of color. Our coalition members are directly involved in the frontline battle against AIDS in their communities across the nation.

We write to you to express our wholehearted support for the Kennedy-Hatch Ryan White CARE Reauthorization Act of 1994. We are extremely grateful to you for the leadership you have demonstrated on a number of HIV and health care issues, and for the ongoing support you have shown this program. The CAEAR Coalition is eager to work with you to ensure passage of this crucial piece of legislation before the end of the 103rd Congress.

Since 1990, the CARE Act has served as a lifeline for thousands of men, women and children living with HIV disease and AIDS in urban, suburban and rural areas of the country. While in 1990 just 16 U.S. cities were eligible for emergency relief through Title I, unfortunately, just four years later the number of eligible communities is thirty-four, and growing. We firmly believe that passage of this legislation before the end of the 103rd Congress is vital to our communities' efforts to successfully fight this growing epidemic.

Sincerely,

Atlanta HIV Planning Council—State Representative James Martin, Chairperson; State Representative LaNett Stanley, Co-Chairperson; Sandra Thurman, Director, Advocacy Programs, The Task Force for Child Survival and Development; Jeff Cheek, Director, Public Policy, AID Atlanta.

Baltimore HIV Planning Council—John Bartlett, M.D., Co-Chair, Johns Hopkins Medical Center; Carla Alexander, M.D., Chase Brexton Clinic.

Boston HIV Planning Council—Brian Felt, Chair; Denise McWilliams, Esq., Vice-Chair, Director, AIDS Law Project, Justice Resource Institute.

Chicago HIV Planning Council—Judith Johns, Co-Chair, Assistant Commissioner, Chicago Department of Health; Mark Ishaug, AIDS Foundation of Chicago.

Dallas HIV Planning Council—Don Maison, Executive Director, AIDS Services of Dallas.

Denver HIV Planning Council—Vic Dukay, Executive Director, The Lundy Foundation.

Detroit HIV Planning Council—Victor L. Marsh, Chair, Southeast Michigan AIDS Council (SEMHAC); Earl Schipper, Michigan AIDS Fund, Greystone Group.

Ft. Lauderdale HIV Planning Council—Jim Jordan, Chair.

Houston HIV Planning Council—Sue Cooper, Houston Department of Public Health.

Kansas City HIV Planning Council—Judy Moore-Nichols, Co-Chair; Mike Baker, Co-Chair.

Los Angeles HIV Planning Council—Phillip Wilson, Co-Chair, AIDS Project Los Angeles; Marcy Kaplan, Co-Chair, Los Angeles Pediatric AIDS Network.

Metro-Dade HIV Services Planning Council—James H. Cullither, PLWA, Chair.

Nassau-Suffolk HIV Planning Council—Theadore Jospe, Chair.

Newark HIV Planning Council—Nick Macchione, Executive Director.

New Haven HIV Planning Council—David Mensah, Member.

New Orleans HIV Planning Council—Judy Montz, Director of Health Policy and AIDS Funding, Office of the Mayor.

New York HIV Planning Council—Keith Cylar, Housing Works; Ronald Johnson, Chair, Coordinator of Citywide AIDS Policy; Joanna Omi, New York City Health and Hospitals Corp.

Oakland HIV Planning Council—Dr. Robert Scott, Chair.

Orange County HIV Planning Advisory Council—Pearl Jemison-Smith, Chair; Ronald Taylor, Orange County Health Care Agency.

Orlando HIV Planning Council—John Lawler, PLWA, Chair, Treasurer, Ryan White II.

Philadelphia HIV Planning Council—Richard H. Scott, Philadelphia Department of Public Health.

Phoenix HIV Planning Council—David Graham, Chairman, Maricopa County Community AIDS Partnership; Wayne Tormala, Executive Director, Maricopa County Community AIDS Partnership.

Ponce HIV Planning Council—Dr. Pedro Castang, Ponce Regency Hospital—Pediatric Center.

Riverside-San Bernardino HIV Planning Council—Bradley Gilbert, M.D., MPP, Chair, Director of Public Health, County of Riverside.

San Diego HIV Planning Council—Carol Nottley, Executive Director, AIDS Foundation San Diego.

San Francisco HIV Planning Council—Estela Garcia, Instituto Familiar de la Raza; Mitch Katz, Co-Chair, Director, AIDS Office, San Francisco Dept. of Public Health; Michael Shriver, Co-Chair, Mobilization Against AIDS.

San Juan HIV Planning Council—Debra Medina, AIDS Task Force; Sonia Torres, AIDS Task Force.

Seattle HIV Planning Council—Gregg Johnson, Co-Chair; Bob Wood, M.D., Co-Chair, Director, AIDS Control Program, Seattle-King County Department of Public Health.

St. Louis HIV Planning Council—Rudy Nickens, Co-Chair; Woody BeBout, Esq.

Tampa/St. Petersburg HIV Planning Council—Chuck Kuehn, Executive Director, Tampa AIDS Network.

Washington, D.C. HIV Planning Council—Ernest C. Hopkins, Chair; A. Cornelius Baker, Vice-Chair, Director of Public Policy and Education for the National Association of People With AIDS.

West Palm Beach HIV Planning Council—Peter Cruise, Chair; Shauna Dunn, Executive Director, Comprehensive AIDS Program of PBC.

ASSOCIATION OF STATE AND
TERRITORIAL HEALTH OFFICIALS,
Washington, DC, September 15, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Association of State and Territorial Health Officials (ASTHO), which represents the chief health officers in the 50 states, the District of Columbia, and the U.S. territories, I am writing to indicate ASTHO's support for of early reauthorization of the Ryan White CARE Act.

ASTHO firmly believes that the Ryan White CARE Act has been instrumental in providing persons living with HIV/AIDS the necessary support and health care services that are crucial to prolonging and improving the quality of their lives.

ASTHO recognizes and applauds the efforts of the Ryan White CARE Act Reauthorization Coalition and, in particular, those of our affiliate the National Alliance of State and Territorial AIDS Directors, in bringing forth state perspectives.

We look forward to the introduction of this legislation and to working with you and your staff in enhancing state capacity to meet the health care needs of persons living with HIV/AIDS. Thank you for your efforts and your commitment to improving the quality of life for persons living with HIV/AIDS.

Sincerely,

PATRICIA A. NOLAN,
Chairwoman.

NATIONAL ALLIANCE OF STATE AND
TERRITORIAL AIDS DIRECTORS,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The National Alliance of State and Territorial AIDS Directors (NASTAD) strongly supports the reauthorization of the Ryan White CARE Act before the end of the 103rd Congress.

Ryan White CARE Act programs have served as a lifeline for people living with HIV/AIDS throughout the United States. Through the provision of comprehensive HIV health and social services, people with HIV/AIDS have gained access to medical and social services that have helped to prolong and improve the quality of their lives.

As the organization representing the state health department HIV/AIDS program managers, NASTAD was deeply involved in the development of provisions to strengthen Title II of the CARE Act, which provides critical funding for comprehensive continuum of care programs in all U.S. states, the District of Columbia, Puerto Rico and the Virgin Islands. We believe that the reauthorization proposals included in the Kennedy-Hatch legislation will enhance Title II, increase access to life-prolonging medications, and help ensure an equitable distribution of resources required to enable all states to respond to the increasing need for HIV care services in urban, suburban, and rural areas.

Thank you for your extraordinary leadership on behalf of people with HIV/AIDS We look forward to working closely with you in the days ahead.

Sincerely,

ROBERT O. MCALISTER,
Chair.
JULIE M. SCOFIELD,
Executive Director.

AIDS POLICY CENTER,
FOR CHILDREN, YOUTH & FAMILIES,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the pediatric, adolescent and family AIDS community and Ryan White CARE Act Title IV grantees, I applaud your efforts to seek expedited passage of the Ryan White CARE Reauthorization Act of 1994 before the end of the 103rd Congress. This legislation is vital to the lives of children, youth, women, men and families affected by AIDS who depend on comprehensive services and access to life-savings drugs that are provided through CARE Act programs.

During the past year, The AIDS Policy Center has joined together in coalition with other national and local AIDS organizations as well as members of the Ryan White CARE Act Reauthorization Coalition for an unprecedented level of commitment and unity in seeking early reauthorization of this legislation. Through in-depth policy analysis and debate, recommendations were developed for technical amendments that take into account the geographic shift in the AIDS epidemic as well as enhanced representation of the pediatric, youth and women's community in CARE Act service planning procedures. In addition, technical amendments related to Title IV have greatly strengthened the ability to provide resources for services and access to clinical research programs in communities hardest hit by the HIV epidemic among children, youth, women, and families.

We look forward to working with you to secure passage of the Ryan White CARE Reauthorization Act of 1994 before the end of next week.

Sincerely,

SHERI SALTZBERG,
President, Board of Directors.

NATIONAL RYAN WHITE
TITLE III(B) COALITION,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: The Ryan White Title (III)(B) Coalition is a national coalition that includes representatives from community and migrant health centers, city and county health departments and diverse community-based organizations, including providers specifically targeting communities of color, hospitals, health care for the homeless centers, family planning agencies and comprehensive hemophilia centers specifically targeting communities of color and other historically underserved populations.

On behalf of the Coalition I wish to express our ardent support for the Ryan White CARE Reauthorization Act of 1994. We join with our partners in the AIDS community to testify that the CARE Act has been—and must continue to be—a vital part of our national response to the AIDS epidemic. The four titles of the CARE Act provide a continuum of HIV services across all states, territories, cities and neighborhoods in the United States.

The Coalition is deeply grateful for your unwavering commitment to Americans living with HIV/AIDS. Because of your leadership, hundreds of thousands of people have been served by Title III(B) programs. It is our profound hope that the CARE Act will continue to serve as a lifeline to those affected and infected with HIV disease for another five years. The Coalition stands ready to support your efforts to reauthorize the CARE Act.

Respectfully,

C. MICHAEL SAVAGE,
Chair.

Mr. SPECTER. Mr. President, as a strong supporter and cosponsor of the Ryan White CARE Act of 1990, I am pleased to join my colleagues as an original cosponsor of the Ryan White CARE Reauthorization Act of 1994. When the Act of 1990 was first introduced, I fought, along with several dedicated individuals representing women and children with HIV/AIDS, to ensure that funding provided under the act would support services and comprehensive care projects for children, youth, and families affected by the disease.

Over the last several years, I have worked to secure a smooth transition and integration of the previously funded pediatric AIDS demonstration

projects with the pediatric AIDS demonstrations authorized under title IV of the act. I am, therefore, pleased that the reauthorization legislation strengthens both the provision of title IV, and the emphasis in the act on providing care to women and children infected with HIV/AIDS. The legislation also makes improvements in the allocation formulas and funding eligibility criteria to ensure that individuals and communities most in need receive assistance under the act.

The Ryan White CARE Act has been instrumental in providing necessary care and services to the nearly 1 million men, women, and children infected with HIV/AIDS. I am proud to be a cosponsor of this bill today. As ranking member of the Labor, Health and Human Services, and Education Appropriations Subcommittee, however, I must remind my colleagues that we face a freeze on discretionary spending over the next 4 years. Increases in funding for the programs under the act will be difficult to obtain. Having just completed work on the Labor, HHS, and Education Appropriations bill for fiscal year 1995, I know how difficult it is to balance the competing requirements for increased funding before the subcommittee. This will be no different next year.

Mr. FEINGOLD. Mr. President, I am pleased to join as an original cosponsor of the Ryan White Comprehensive AIDS Resource Emergency Act reauthorization package and would like to express my full and enthusiastic support for this measure. I commend Senator KENNEDY and members of his staff for their excellent stewardship in crafting this legislation, and for working hard to ensure that it receives attention this session.

For several months, Wisconsin AIDS groups and my office have worked in coalition with national AIDS organizations to develop a new formula for greater equity in the distribution of CARE Act funds and to move forward with an expedited reauthorization measure. The bill introduced in the Senate today represents a sincere effort to support equitable national funding for people with AIDS through changes in the funding formulas, while maintaining the integrity of each of the four titles of the CARE Act. It is a victory for people living with AIDS and HIV who are entitled to quality care regardless of where in this country they reside.

The CARE Act provides comprehensive medical and support services for thousands of Americans living with HIV/AIDS in cities, States, and communities across the United States. There is no question that these programs are necessary. One American becomes infected with HIV every 15 minutes, and in Wisconsin alone cumulative cases of AIDS and HIV infection as reported between 1982 and June 30, 1994 exceed 6,700. In 1993, 395 people in my State were diagnosed with AIDS, and 456 people learned that they were infected with HIV. HIV infection and AIDS cases are no longer striking Wisconsin's largest urban areas, the number of AIDS cases reported outside of the cities of Milwaukee and Madison are increasing rapidly, and now represent 39 percent of State's total cases.

Our experience with Ryan White programs to date reflect a profound reality—the dollars we spend through the CARE Act make a dramatic and positive difference in the lives of people living with AIDS. This reauthorization package goes a long way to make certain that those benefits are felt nationwide. It creates a supplemental grant system for the 32 States, like Wisconsin, that historically have not received emergency priority cities title I funding from the CARE Act. A minimum $250,000 allotment will be given to each State, regardless of the number of AIDS cases within their border. Supplemental grants will then be awarded on the basis of reported cases in each State. For States like Wisconsin, with AIDS caseloads greater than 1,500, an additional $500,000 supplemental grant will be provided. In total these changes should result in significant new funding for States with growing populations of AIDS and HIV survivors living in rural areas.

A reauthorized CARE Act that provides for equitable national funding per AIDS case to both high incidence cities and the states will strengthen the national response to AIDS, and should not result in financial harm to any community or State. The AIDS service providers in my State and I believe it would continue to direct more resources to higher incidence communities and would also assure that all regions of the country have resources to manage the AIDS epidemic commensurate to their incidence of AIDS. I respectfully urge my colleagues to support Ryan White CARE Act reauthorization.

By Mr. PRESSLER:

S. 2490. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program of conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation that addresses a major concern of land owners and businesses not only in South Dakota but throughout the United States. The concern is wetlands.

Traveling throughout South Dakota and listening to the people, it is clear that wetlands are an issue on everyone's mind. More often than not, current wetlands policy is a burden on our farmers, ranchers, and business people. Problems with current wetlands policies have affected farmers and ranchers predominantly. However, current policies also are now affecting those who live in our cities and small towns. The bill I am introducing today would go far in establishing a policy that neither is burdensome nor imposes unwarranted costs and regulations.

And what are these wetlands concerns? The right to own private property is one. Compensation to property owners when land is taken away or when use of the land is restricted is another. Government-forced changes in farming and ranching operations are on everyone's mind. Current excessive penalties and fines could force young farmers and ranchers of the land. Obstacles to business expansion are another current concern.

Mr. President, the list of concerns goes on. These concerns are not imagined. They are real. In just one county in South Dakota—Kingsbury—nearly 20 percent of that county's farmland contains Government wildlife easement wetlands. However, Government officials have not notified farmers of those easements. Seven possible wetlands violations were reported in Kingsbury County earlier this year. Yet four of the seven operators charged had no idea there were wetlands easements on their farms.

In these cases, local officials quickly identified the problem, and notified the affected farmers. The farmers then quickly repaired the disruption of their wetlands. Now these farmers are waiting for a ruling from Washington, DC bureaucrats on what their penalty will be.

The penalties will not be light. They could reach $35,000. Mr. President, I do not know any small farmer or rancher who can afford to lose $35,000. Efforts must be taken to ensure that any fine or penalty is in line with violations. Many violations are incidental and quickly repaired. Penalties should fit the crime.

The concerns go well beyond farms and ranches. In Watertown, SD, a new elementary school is under construction. This month it was discovered that the 25-acre lot where the school is being built contains a wetland. All construction has ceased and builders are trying to determine what Federal permits are needed to resume construction. The process will take months. There is the possibility that fines may be levied.

Thousands of South Dakotans have written, called, or visited with me about the definition of wetlands and the rules and regulations designed to protect wetlands. Farmers, ranchers, business men and women, and individual South Dakotans have clearly identified one of the most important issues affecting their lives. They are concerned about the definition of wetlands

and what guidelines should be adopted to ensure their protection.

After listening to South Dakotans, I cosponsored legislation last year, S. 1463, which would create much-needed guidelines for identifying and delineating wetlands and creating a balance between growth and the protection of private property. I have revised that bill and I am introducing it today in order to begin discussions on this crucial issue prior to the 104th Congress.

Next year, the Senate will consider changes in the Clean Water Act. Section 404 of that act is designed to protect wetlands. It is quite controversial. Current law is too broad, and it is causing too many problems throughout the country. The bill I am introducing today brings needed reform to section 404 and provides realistic wetlands definitions.

Congress has never passed a comprehensive law defining wetlands. Without that definition, Federal agencies have been aggressively pursuing control over private property in the name of saving wetlands. What the Government should or should not be doing in this area needs to be defined clearly. My bill does that. It provides definitions that protect true wetlands area and protects the rights of private property owners.

My bill requires certain criteria to be met and verified before an area can be regulated as a wetland. Such an approach is more reliable in identifying true wetlands. It prevents field inspectors from mistakenly classifying dry, upland areas that are drained effectively as wetlands, and also eliminates a major source of confusion and abuse caused by current regulations.

Mr. President, I ask that an explanation of the bill be printed in the RECORD at this point.

Mr. President, I applaud my friend and colleague Senator BREAUX for being the leader on this issue during last Congress. While the issue was not addressed on the floor during the 103d Congress, I wanted to introduce this bill to begin the debate for the next Congress.

The 104th Congress must address this issue. Whether it becomes part of the 1995 farm bill or whether it is adopted as a provision during the Clean Water Act reauthorization, this issue will be addressed. My bill establishes a common sense and balanced approach to defining and protecting wetlands.

The bill I am introducing today has strong support in my State. I will be introducing this bill again at the beginning of the 104th Congress and I will work for its adoption. I urge my colleagues to take a close look at this bill, and join me in sponsoring this bill next year.

The bill has wide support. The American Farm Bureau, National Farmers Union, National Cattlemen's Association, National Association of Home Builders, and the Alliance for America, among others, all support this bill.

Only through the kind of common sense and balanced approach proposed in my bill can the Nation's agricultural, business, environmental, and individual interests be addressed properly.

Mr. President, I ask unanimous consent that a copy of my 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. 2490

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 "Comprehensive Wetlands Conservation and Management Act of 1994".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) wetlands play an integral role in maintaining high quality of life through material contributions to the national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and to the health, safety, recreation, and economic well-being of citizens throughout the United States;

(2) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(3) much of the wetlands resource of the United States has sustained significant loss or degradation, resulting in the need for effective programs to limit the loss and degradation of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base;

(4) because 75 percent of the wetlands in the lower 48 States is privately owned and because the majority of the population of the United States lives in or near wetlands, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances important wetlands functions and values while observing private property rights, recognizing the need for essential public infrastructure, such as highways, ports, airports, sewer systems, and public water supply systems, and providing the opportunity for sustained economic growth; and

(5) the Federal permit program established under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) was not originally conceived as a wetlands regulatory program and is insufficient to ensure that the wetlands resource base of the United States will be conserved and managed in a fair and environmentally sound manner.

(b) PURPOSE.—The purpose of this Act is to establish a new Federal regulatory program for activities in wetlands and waters of the United States to—

(1) assert Federal regulatory jurisdiction over a broad category of specifically identified activities that result in the loss or degradation of wetlands and waters of the United States;

(2) account for variations in wetlands functions or values in determining the character and extent of regulation of activities occurring in wetlands;

(3) provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

(4) encourage conservation of resources on an ecosystem basis to the fullest extent practicable; and

(5) balance public and private interests in determining the conditions under which activity in wetlands and waters of the United States may occur.

SEC. 3. WETLANDS CONSERVATION AND MANAGEMENT.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by striking section 404 and inserting the following new section:

"SEC. 404. PERMITS FOR ACTIVITIES IN WETLANDS OR WATERS OF THE UNITED STATES.

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

"(1) ACTIVITY IN WETLANDS OR WATERS OF THE UNITED STATES.—The term 'activity in wetlands or waters of the United States' means—

"(A) the discharge of dredged or fill material into waters of the United States, including wetlands at a specific disposal site; or

"(B) the draining, channelization, or excavation of wetlands.

"(2) CREATION.—The term 'creation', used with respect to wetlands, means an activity that brings wetlands into existence, at a site where the wetlands did not formerly occur, for the purpose of compensation.

"(3) DIRECTOR.—The term 'Director', used without further modification, means the Director of the United States Fish and Wildlife Service.

"(4) ENHANCEMENT.—The term 'enhancement', used with respect to wetlands or waters of the United States, means an activity that increases the value of a function in wetlands or waters of the United States.

"(5) FASTLANDS.—The term 'fastlands' means lands located behind permitted manmade structures, such as lands located behind a levee to permit utilization of the lands for commercial, industrial, or residential purposes consistent with each local land use planning requirement.

"(6) GROWING SEASON.—The term 'growing season' means, for each plant hardiness zone, the period between the average date of last frost in spring and the average date of first frost in autumn.

"(7) INCIDENTALLY CREATED.—The term 'incidentally created', used with respect to wetlands, means lands that otherwise meet the standards for delineation of wetlands described in paragraphs (1) and (2) of subsection (g), if a characteristic of the wetlands is the unintended result of a human induced alteration of hydrology.

"(8) MAINTENANCE.—The term 'maintenance' means an activity undertaken to ensure continuation of wetlands or the accomplishment of a project goal after a wetlands restoration or wetlands creation project has been technically completed, including water level manipulation and control of any nonnative plant species.

"(9) MITIGATION BANKING.—The term 'mitigation banking' means wetlands restoration, enhancement, preservation, or creation for the purpose of providing compensation for wetlands loss or degradation.

"(10) NORMAL FARMING, SILVICULTURE, AQUACULTURE, OR RANCHING ACTIVITY.—The term 'normal farming, silviculture, aquaculture, or ranching activity' means a normal ongoing practice identified as a normal ongoing activity by the Secretary of Agriculture (in consultation with the Cooperative Extension Service for each State, the

land-grant university system, and the agricultural colleges of the State), taking into account any existing practice (as of the date of the identification) and any other practice that may be identified in consultation with the affected industry or community.

"(11) PRIOR CONVERTED CROPLAND.—The term 'prior converted cropland' means lands that were both manipulated (by drainage or other physical alteration to remove excess water from the land) and cropped before December 23, 1985, to the extent that the lands no longer exhibit significant wetlands functions or values.

"(12) RESTORATION.—The term 'restoration', used with respect to wetlands, means an activity undertaken to return wetlands from a disturbed or altered condition with lesser wetlands acreage or fewer wetlands functions or values to a previous condition with greater wetlands acreage or more wetlands functions or values.

"(13) SECRETARY.—The term 'Secretary', used without further modification, means the Secretary of the Army.

"(14) TEMPORARY.—The term 'temporary', used with respect to an impact, means the disturbance or alteration of wetlands or waters of the United States caused by an activity under a circumstance in which, not later than 3 years following the commencement of the activity, the wetlands or waters—

"(A) are returned to the condition in existence prior to the commencement of the activity; or

"(B) display a condition sufficient to ensure that without further human action the wetlands or waters will return to the condition in existence prior to the commencement of the activity.

"(15) WETLANDS.—The term 'wetlands' means lands that meet the standards for delineation of lands as wetlands set forth in paragraphs (1) and (2) of subsection (g).

"(16) WETLANDS FUNCTIONS.—The term 'wetlands functions' means the roles wetlands serve that are of value, including flood water storage, flood water conveyance, ground water discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fishery support, wetlands plant habitat support, aquatic habitat support, and habitat for wetlands-dependent wildlife support.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PERMIT REQUIREMENT.—No person shall undertake an activity in wetlands or waters of the United States unless the activity is undertaken pursuant to a permit issued by the Secretary, except as provided in paragraph (3).

"(2) ISSUANCE OF PERMITS.—The Secretary may issue permits authorizing activities in wetlands or waters of the United States in accordance with the requirements of this section.

"(3) ACTIVITIES NOT REQUIRING PERMITS.—An activity in wetlands or waters of the United States may be undertaken without a permit described in paragraph (2) from the Secretary if the activity is authorized under paragraph (5) or (6) of subsection (e), is exempt under subsection (f), or is otherwise exempt under another provision of this section.

"(4) APPLICATION.—Any person seeking to undertake an activity in wetlands or waters of the United States shall submit an application to the Secretary identifying the site of the activity. The applicant shall also provide such additional information regarding the proposed activity as may be necessary or appropriate for purposes of determining whether and under what conditions the proposed activity may be permitted to occur.

"(c) WETLANDS CLASSIFICATION.—

"(1) APPLICATION.—In submitting an application under subsection (b), any person seeking to undertake an activity in wetlands for which a permit is required under subsection (b) shall request that the Secretary determine, in accordance with paragraph (3), the classification of the wetlands in which the activity is proposed to occur. The applicant shall also provide such information as may be necessary or appropriate for determining the classification of wetlands.

"(2) NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the receipt of an application described in paragraph (1) relating to an activity in wetlands, the Secretary shall provide notice to the applicant of the classification of the wetlands that are the subject of the application and shall state in writing the basis for the classification. The classification of the wetlands that are the subject of the application shall be determined by the Secretary in accordance with the requirements for classification of wetlands under paragraphs (3), (4), and (5).

"(B) NOTICE REGARDING ADVANCE CLASSIFICATION.—In the case of an application proposing an activity located in wetlands that are the subject of an advance classification under subsection (h), the Secretary shall provide notice to the applicant of the classification within 30 days following the receipt of the application, and shall provide an opportunity for review of the classification under paragraphs (4) and (5).

"(3) CLASSIFICATION.—On receipt of an application under this subsection with respect to wetlands, the Secretary shall, in accordance with the standards and procedures established by regulation issued under subsection (i)—

"(A) classify as type A wetlands the wetlands that are of critical significance to the long-term conservation of the ecosystem of which the wetlands are a part if—

"(i) the wetlands serve critical wetlands functions and values, including the provision of critical habitat for a concentration of avian, aquatic, or wetlands-dependent wildlife;

"(ii)(I) the wetlands consist of or are a portion of 10 or more contiguous acres and have an inlet or outlet for relief of water flow; or

"(II) the wetlands contain a prairie pothole feature, playa lake, or vernal pool;

"(iii) there exists a scarcity within the watershed or aquatic ecosystem of identified ecological functions served by the wetlands such that the use of the wetlands for an activity in wetlands or waters of the United States would seriously jeopardize the availability of the identified functions;

"(iv) there is no overriding public interest in the use of the wetlands for purposes other than conservation; and

"(v) the nature and scope of the wetlands functions and values of the wetlands are such that minimization and compensation are not feasible means for conserving the wetlands functions and values;

"(B) classify as type B wetlands the wetlands that provide habitat for a significant population of avian, aquatic, or wetlands-dependent wildlife, or provide other significant wetlands functions and values, including significant enhancement or protection of water quality in waters of the United States, or significant natural flood control; and

"(C) classify as type C wetlands the wetlands that—

"(i) serve limited wetlands functions and values;

"(ii) serve marginal wetlands functions and values but that exist in such abundance that regulation of activities in the wetlands is not necessary for conserving important wetlands functions and values;

"(iii) are prior converted cropland;

"(iv) are fastlands; or

"(v) are wetlands within industrial complexes or other intensely developed areas that do not serve significant wetlands functions and values as a result of the location.

"(4) DE NOVO DETERMINATION.—Not later than 30 days after receipt of notice of an advance classification by the Secretary under paragraph (2)(B), an applicant may request that the Secretary make a de novo determination of the classification of wetlands that are the subject of the notice. The de novo determination shall be made by the Secretary in consultation with the Director. The Secretary may sustain the advance classification made by the Director. The Secretary may modify the classification if the Secretary determines, on examination of all relevant information submitted by the applicant or otherwise available to the Secretary (including, if appropriate, an on-the-ground examination) that—

"(A) the lands involved do not meet the standards for delineating wetlands set forth in paragraph (1) or (2) of subsection (g);

"(B) the weight of relevant information does not support the determination of the advance classification with respect to the specific wetlands involved;

"(C) the factual basis for the advance classification is no longer valid; or

"(D) the limitations on uses of the specific wetlands involved that would be imposed by the Secretary under this section would effectively preclude reasonable economic use of the wetlands.

"(5) APPEALS.—In the event that the Secretary delegates authority to determine the classification of wetlands under paragraphs (3) and (4), the Secretary shall, by regulation, provide for a right of appeal to the Secretary or the designee of the Secretary of the classification of wetlands under paragraph (3) or the de novo determination of an advance classification in accordance with paragraph (4).

"(6) MAXIMUM PERCENT OF LANDS CLASSIFIED AS TYPE A WETLANDS.—No more than 20 percent of any county, parish, or borough shall be classified as type A wetlands. For purposes of this paragraph, a county, parish, or borough includes any land in the county, parish, or borough that is owned by the United States or by a State, including land in a unit of the National Wildlife Refuge System, land in the National Park System, and land in a conservation easement.

"(d) COMPENSATION FOR LANDOWNERS.—

"(1) ELECTION TO SEEK COMPENSATION.—Any person (including a State or political subdivision of a State) who owns an interest in lands that have been classified as type A wetlands by the Secretary under subsection (c)(3)(A) or by the Director under subsection (h) may, not later than 2 years after receipt of actual notice of the classification (or not later than 2 years after a de novo determination of the classification under subsection (c)(4)), notify the Secretary and the Director that the person is electing to seek compensation for the fair market value of the interest in lands at the time of the classification, in accordance with the requirements of this section. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

"(2) NEGOTIATIONS.—Immediately on receipt by the Secretary and the Director of notification of election to seek compensation under paragraph (1), the Director shall enter into good faith negotiations with the owner for purposes of determining the value of the interest in lands that have been classified as type A wetlands. Not later than 90 days after receipt of the notification of election by the owner under paragraph (1), the Director shall make an offer of reasonable compensation to the owner.

"(3) ACTION OF OWNER.—

"(A) IN GENERAL.—Not later than 6 years after the date the Director makes an offer of compensation under paragraph (2), the owner shall provide notice that the owner, in the discretion of the owner—

"(i) accepts the offer of compensation;

"(ii) has filed a claim for determination of the value of the compensation described in paragraph (1) with the United States Court of Federal Claims; or

"(iii) advises the Director and the Secretary that the owner elects to retain title to the wetlands and elects not to receive compensation for the taking of land under this subsection.

"(B) FAILURE TO PROVIDE NOTICE.—Failure to provide notice in accordance with this paragraph shall be deemed an election to retain title to the wetlands and not to receive compensation under this subsection.

"(4) EFFECT OF ACCEPTANCE OF OFFER OR FILING OF CLAIM.—On acceptance of an offer of compensation, or the filing of a claim for determination of the value of compensation, under paragraph (3), the classification as type A wetlands of the wetlands that are the subject of the offer or claim shall be binding on the owner and any successor in interest, and the title to the lands shall pass to the United States. The classification of the lands as type A wetlands under this paragraph shall constitute a taking by the United States of the interests in the lands of the owner and shall be compensable under this subsection.

"(5) EXTENT OF TAKING.—A taking under this subsection shall be deemed to be a taking of surface interests in lands only, with the following exceptions:

"(A) EXPLORATION OR DEVELOPMENT NOT COMPATIBLE WITH CONSERVATION.—If the Secretary determines that the exploration for or development of oil and gas or mineral interests is not compatible with conservation of the surface interests in lands that have been classified as type A wetlands located above the oil and gas or mineral interests (or located adjacent to the oil and gas or mineral interests where the adjacent lands are necessary to provide reasonable access to the interests), the Secretary may classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

"(B) FAILURE TO PROVIDE REASONABLE ACCESS.—The failure of the Secretary to provide reasonable access to oil and gas or mineral interests located beneath or adjacent to surface interests of type A wetlands shall be deemed a taking of the oil and gas or mineral interests. The Secretary shall classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

"(6) JURISDICTION.—The United States Court of Federal Claims shall have jurisdiction—

"(A) to determine the value of interests taken and the fair compensation required under this subsection and the Constitution;

"(B) in the case of oil and gas or mineral interests, to require the United States to provide reasonable access in, across, or through lands that may be the subject of a taking under this subsection solely for the purpose of undertaking activity necessary to determine the value of the interests taken; and

"(C) to provide other equitable remedies determined to be appropriate.

"(7) EXECUTION OF JUDGMENT.—Any judgment rendered under paragraph (6) may be executed, at the election of the owner. Any owner seeking to execute such a judgment shall execute the judgment not later than 2 years after the date the judgment is rendered. The owner may, prior to the execution of the judgment, enter into an agreement with the United States for satisfaction of the judgment through a crediting of a tax benefit, acquisition of an interest in oil and gas or minerals, an exchange of interests in lands with the United States, or other means of compensation.

"(8) CONSTRUCTION.—

"(A) AVAILABILITY OF OTHER REMEDIES.—The remedy for a taking of an interest in lands under this subsection shall not be construed to preempt, alter, or limit the availability of other remedies for the taking of the interest in lands under the Constitution or under State law, including the taking of rights to the use of water allocated under State law or the taking of the interest in lands by denial of a permit under this section.

"(B) TAKING BY DENIAL OF A PERMIT.—Any award of compensation for the taking of an interest in lands by denial of a permit under this section shall be based on the fair market value of the interest in lands at the time of the taking. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

"(9) MANAGEMENT.—Interests in lands acquired by the United States under this subsection shall be managed by the United States Fish and Wildlife Service as a part of the National Wildlife Refuge System unless the Secretary of the Interior, acting through the Director, makes a determination otherwise, or unless otherwise provided by law.

"(10) REQUIREMENTS GOVERNING USE OF WATER.—No action taken under this subsection shall be construed to alter or supersede requirements governing use of water applicable under State law.

"(e) REQUIREMENTS APPLICABLE TO PERMITTED ACTIVITY.—

"(1) ISSUANCE OR DENIAL OF PERMITS.—Following the provision of notice of wetlands classification pursuant to subsection (c) if applicable, and after compliance with the requirements of subsection (d) if applicable, the Secretary may issue or deny a permit for authorization to undertake an activity in wetlands or waters of the United States, in accordance with the requirements of this subsection.

"(2) TYPE A WETLANDS.—

"(A) IN GENERAL.—The Secretary shall deny a permit authorizing an activity in type A wetlands unless the Secretary determines that—

"(i) the activity can be undertaken with minimal alteration or surface disturbance of the wetlands; or

"(ii) the proposed use of the land, taking into account all proposed mitigation, will result in overall environmental benefits, including the prevention of wetlands loss or degradation.

"(B) TERMS AND CONDITIONS CONCERNING MITIGATION.—Any permit issued authorizing activities in type A wetlands may contain such terms and conditions concerning mitigation (including terms and conditions applicable under paragraph (3) for type B wetlands) as the Secretary determines to be appropriate to prevent the unacceptable loss or degradation of type A wetlands.

"(3) TYPE B WETLANDS.—

"(A) CONSIDERATIONS.—The Secretary may issue a permit authorizing an activity in type B wetlands subject to such terms and conditions as the Secretary finds are necessary to ensure that the watershed or aquatic ecosystem of which the wetlands are a part does not suffer significant loss or degradation of wetlands functions and values. In determining whether specific terms and conditions are necessary to avoid a significant loss or degradation of wetlands functions and values, the Secretary shall consider the following:

"(i) The quality and quantity of ecologically significant functions and values served by the areas to be affected.

"(ii) The opportunities to reduce impacts through cost-effective design to avoid or minimize use of wetlands.

"(iii) The costs of mitigation requirements and the social, recreational, and economic benefits associated with the proposed activity, including local, regional, or national needs for improved or expanded infrastructure.

"(iv) The ability of the applicant for the permit to mitigate wetlands loss or degradation as measured by wetlands functions and values.

"(v) The environmental benefit, measured by wetlands functions and values, that may occur through mitigation efforts, including restoration, preservation, enhancement, or creation of wetlands functions and values.

"(vi) The marginal impact of the proposed activity on the watershed or aquatic ecosystem of which the wetlands are a part.

"(B) ALTERNATIVE SITE ANALYSES AND PROJECT PURPOSES.—In considering applications for permits with respect to activities on type B wetlands, the Secretary may require alternative site analyses for individual permit applications involving the alteration or permanent surface disturbance of 10 or more contiguous acres of wetlands. In the case of such an application, there shall be a rebuttable presumption that the project purpose for the activities as defined by the applicant shall be binding on the Secretary. In the case of such an application, the definition of project purpose for the activities sponsored by a public agency shall be binding on the Secretary, subject to the authority of the Secretary to impose mitigation requirements to minimize impacts on wetlands functions and values, including cost-effective redesign of the project to avoid wetlands.

"(C) REQUIREMENTS FOR MITIGATION.—Except as otherwise provided in this section, requirements for mitigation shall be imposed if the Secretary finds that activities undertaken under this section will result in the loss or degradation of type B wetlands functions and values where the loss or degradation is not an incidental or a temporary impact. When determining the mitigation requirements in any specific case, the Secretary shall take into consideration the characteristics of the wetlands affected, the

character of the impact on ecological functions, whether any adverse effects on wetlands are of a permanent or temporary nature, and the cost-effectiveness of the mitigation and shall seek to minimize the costs of the mitigation.

"(D) REGULATIONS GOVERNING REQUIREMENTS FOR MITIGATION.—The Secretary shall issue regulations under subsection (i) governing requirements for compensatory mitigation, for activities occurring in type B wetlands, that allow for—

"(i) minimization of impacts through project design for the activities, including avoidance of specific wetlands impacts where economically practicable and consistent with the project purpose, provisions for compensatory mitigation, if any, and other terms and conditions necessary and appropriate in the public interest;

"(ii) preservation or donation of type A wetlands or type B wetlands (if title has not been acquired by the United States and no compensation for the taking of the wetlands has been provided) as mitigation for activities that result in loss or degradation of wetlands;

"(iii) enhancement or restoration of lost or degraded wetlands as compensation for wetlands lost or degraded through permitted activity;

"(iv) compensation through contribution to a mitigation banking program established for a State pursuant to subparagraph (F);

"(v) offsite compensatory mitigation with respect to an activity in a wetlands, if the mitigation contributes to the restoration, enhancement, or creation of significant wetlands functions and values on a watershed or ecosystem-wide basis and is balanced with the effects that an activity proposed to be carried out under a permit will have on the specific site (except that offsite compensatory mitigation, if any, shall be required only in the State in which the proposed activity is to occur, and shall, to the extent practicable, be within the watershed or aquatic ecosystem within which the proposed activity is to occur, unless otherwise consistent with a State wetlands management plan);

"(vi) contribution of in-kind value acceptable to the Secretary and otherwise authorized by law;

"(vii) in areas subject to wetlands loss or degradation, construction of coastal protection and enhancement projects;

"(viii) contribution of resources of more than 1 permit recipient toward a single mitigation project; and

"(ix) other mitigation measures determined by the Secretary to be appropriate, in the public interest, and consistent with the requirements and purposes of this Act.

"(E) COMPENSATORY MITIGATION.—Notwithstanding subparagraph (C), the Secretary may determine not to impose requirements for compensatory mitigation, with respect to an activity in a wetlands, if the Secretary finds that—

"(i) the adverse impacts of an activity proposed to be carried out under a permit are limited;

"(ii) the failure to impose compensatory mitigation requirements is compatible with maintaining wetlands functions and values and no practicable and reasonable means of compensatory mitigation is available;

"(iii) there is an abundance of similar significant wetlands functions and values in or near the area in which the proposed activity is to occur that will continue to serve the functions and values lost or degraded as a result of the activity, taking into account the impacts of the activity and the cumulative impacts of similar activity in the area;

"(iv) the temporary character of the impacts and the use of minimization techniques make compensatory mitigation unnecessary to protect significant wetlands functions and values; or

"(v) a waiver from requirements for compensatory mitigation is necessary to prevent special hardship.

"(F) MITIGATION BANKING PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary, in consultation with the Director, shall establish a mitigation banking program in each State. The mitigation banking program shall be developed in consultation with the Director and the Governor of the State in which the wetlands covered by the mitigation banking program is located. After approval of the program by the Secretary, the Secretary may require contributions to the program as a means for ensuring compensation for loss and degradation of wetlands functions and values in the State in accordance with the requirements of this paragraph.

"(ii) PRIMARY OBJECTIVE.—The primary objective of the programs shall be to provide for the restoration, enhancement, or, where feasible, creation of ecologically significant wetlands on an ecosystem basis.

"(iii) FUNCTIONS AND VALUES.—Each program described in clause (i) shall—

"(I) provide a preference for large-scale projects for conservation, enhancement, or restoration of wetlands, unless the Secretary (or the Governor of a State that is administering a State permit program under subsection (l)) determines that a smaller project will contribute substantially to the conservation, enhancement, or restoration of ecologically significant wetlands functions and values or that the restoration of indigenous wetlands resources cannot be accomplished through large-scale projects;

"(II) authorize mitigation banks sponsored by private entities or public entities;

"(III) provide for the crediting to a State or privately maintained mitigation bank of contributions in land or cash, or in-kind contributions, so that persons unable to sponsor specific mitigation projects can contribute to the mitigation bank;

"(IV) have sufficient requirements to ensure completion, maintenance, and supervision of wetlands projects for at least a 25-year period, including requirements for bonds or other evidence of financial responsibility;

"(V) authorize the imposition of bonding requirements on private entities operating the banks;

"(VI) limit activities in or on wetlands that are part of a mitigation bank to uses that are consistent with maintaining or gaining significant wetlands functions and values; and

"(VII) authorize a credit to be provided on an acre-for-acre or value-for-value basis for type A and B wetlands that are permanently protected in national conservation units in any State that has converted less than 10 percent of the historic wetlands base of the State to other uses.

"(4) ACTION ON APPLICATIONS.—

"(A) TIMING.—In the case of any application for authorization to undertake activities in wetlands or waters of the United States that are not type C wetlands, final action by the Secretary shall occur not later than 180 days after the date the application is filed, unless—

"(i) the Secretary and the applicant agree that the final action shall occur within a shorter or longer period of time;

"(ii) the Secretary determines that an additional, specified period of time is necessary to permit the Secretary to comply with other applicable Federal law; or

"(iii) the Secretary, not later than 15 days after the date the application is received, notifies the applicant that the application does not contain all information necessary to allow the Secretary to consider the application and identifies any necessary additional information, in which case the provisions of subparagraph (B) shall apply.

"(B) ADDITIONAL INFORMATION.—On the receipt of a request for additional information under subparagraph (A)(iii), the applicant shall supply the additional information and shall provide notice to the Secretary that the application contains all requested additional information and is therefore complete. The Secretary may—

"(i) not later than 30 days after the receipt of notice from the applicant that the application is complete, determine that the application does not contain all requested additional information and, on the basis of the determination, deny the application without prejudice with respect to resubmission; or

"(ii) not later than 180 days after the receipt of notice from the applicant that the application is complete, review the application and take final action on the application.

"(C) FAILURE TO ACT ON APPLICATION.—If the Secretary fails to take final action on an application as provided in subparagraph (B)(ii), on the 180th day described in such subparagraph a permit shall be presumed to be granted authorizing the activities proposed in the application under such terms and conditions as are stated in the completed application.

"(D) APPEALS.—Not later than 60 days after the date of a decision of the Secretary denying a permit requested in an application under this paragraph, the applicant may appeal the decision to the Secretary of Defense or the designee of the Secretary of Defense. On such an appeal, the Secretary of Defense or the designee shall uphold the decision of the Secretary of the Army if the Secretary of the Army proves by clear and convincing evidence that granting the permit requested in the application would be inconsistent with this section.

"(5) TYPE C WETLANDS.—

"(A) PERMIT NOT REQUIRED.—Activities in wetlands that have been classified as type C wetlands under subsection (c)(3)(C) by the Secretary or under subsection (h) by the Director may be undertaken without a permit referred to in subsection (b).

"(B) REPORTING REQUIREMENTS.—The Secretary may establish requirements for reporting activities undertaken in type C wetlands.

"(C) ALTERNATIVE SITE ANALYSIS AND MITIGATION NOT REQUIRED.—No requirements for alternative site analyses or mitigation of environmental impacts shall apply for activities undertaken in type C wetlands.

"(6) NATIONAL, REGIONAL, OR STATEWIDE GENERAL PERMITS.—

"(A) IN GENERAL.—The Secretary may, in accordance with a regulation issued under subsection (i), issue general permits on a national, regional, or statewide basis for any category of activities in wetlands or waters of the United States for which a permit would otherwise be required under subsection (b), if the Secretary determines that the activities in the category are similar in nature and that the activities, whether performed separately or cumulatively, will not result in a significant loss or degradation of ecologically significant wetlands functions

and values or of ecologically significant waters of the United States. Permits issued under this paragraph shall include procedures for expedited review of eligibility for the permits (if the review is required) and may include requirements for reporting and mitigation. The Secretary may impose requirements for compensatory mitigation for the permits if necessary to avoid or minimize the significant loss or degradation of significant wetlands functions and values where the loss or degradation is not an incidental or a temporary impact.

"(B) EXISTING GENERAL PERMITS.—General permits issued on a national or regional basis for a activities in the wetlands or waters of the United States and in effect on the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994 shall remain in effect until otherwise modified by the Secretary.

"(f) ACTIVITIES NOT REQUIRING PERMIT.—

"(1) ACTIVITIES.—Except as provided in paragraph (3), activities in wetlands or waters of the United States shall be exempt from the requirements of this section and shall not be prohibited by or otherwise subject to regulation under this section or section 301 or 402 (except to the extent such sections relate to compliance with effluent standards or prohibitions under section 307), if the activities—

"(A) result from normal farming, silviculture, aquaculture, or ranching activities and practices, such as plowing, seeding, cultivating, minor drainage, burning of vegetation in connection with the activities and practices, harvesting for the production of food, fiber, or forest products, or upland soil and water conservation practices;

"(B) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently (as of the date of the maintenance) serviceable structures such as dikes, dams, levees, water control structures, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(C) are for the purpose of construction or maintenance of farm, stock, or aquaculture ponds or irrigation canals and ditches, or the maintenance of drainage ditches;

"(D) are for the purpose of construction of temporary sedimentation basins on a construction site that does not include placement of fill material into navigable waters;

"(E) are for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, if the roads are constructed and maintained, in accordance with best management practices, to ensure that flow and circulation patterns and chemical and biological characteristics of the waters involved are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(F) are undertaken on farmed wetlands, except that any change in use of the wetlands for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to this section;

"(G) result from any activity with respect to which a State has an approved program for which an application was submitted under section 208(b)(4) that meets the requirements of subparagraphs (B) and (C) of such section;

"(H) are consistent with a State or local land management plan submitted to the Secretary and approved pursuant to paragraph (2);

"(I) are undertaken in connection with a marsh management and conservation program in a coastal parish in Louisiana if the program has been approved by the Governor of the State or the designee of the Governor;

"(J) are undertaken on lands or involve activities within a coastal zone of a State that are excluded from regulation under the State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(K) are undertaken in incidentally created wetlands, unless the incidentally created wetlands have exhibited wetlands functions and values for more than 5 years (in which case activities undertaken in the wetlands shall be subject to the requirements of this section);

"(L) are part of expanding an ongoing farming operation involving the water dependent, obligate crop, Vaccinium macrocarpin, if—

"(i) the expansion does not occur in type A wetlands;

"(ii) the expansion does not result in the conversion of more than 10 acres of wetlands or waters of the United States per operator per year; and

"(iii) the converted wetlands or waters of the United States (other than in locations where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(M) result from aggregate or clay mining activities in wetlands or waters of the United States conducted pursuant to a State or Federal permit that requires the reclamation of the wetlands or waters of the United States, if the reclamation meets conditions for reclamation, including conditions that—

"(i) the reclamation shall be completed within 5 years of the commencement of activities in the wetlands or waters; and

"(ii) on completion of the reclamation, the wetlands or waters shall support functions (including wetlands functions, as appropriate) and values equivalent to the functions and values supported by the wetlands or waters at the time of commencement of the activities.

"(2) STATE AND LOCAL LAND MANAGEMENT PLANS.—

"(A) DEVELOPMENT AND SUBMISSION OF PLAN.—Any State or political subdivision of a State acting pursuant to State authorization may develop a land management plan with respect to lands that include wetlands. A State or local government agency, acting on behalf of the State or political subdivision, may submit the plan to the Secretary for review and approval. The Secretary shall, not later than 60 days after receipt of the plan, notify a designated State or local official in writing of approval or disapproval of the plan.

"(B) APPROVAL.—The Secretary shall approve any plan described in subparagraph (A) that is consistent with the objectives of this section. No person shall be entitled to judicial review of the decision of the Secretary to approve or disapprove a land management plan under this paragraph.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to alter, limit, or supersede the authority of a State or political subdivision of a State to establish a land management plan for purposes other than the objectives of this subsection.

"(g) STANDARDS FOR DELINEATING WETLANDS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, by regulation issued under subsection (i), that shall govern the delineation of lands as wetlands for purposes of this section.

"(B) CONSULTATION.—Before establishing standards as described in subparagraph (A), the Secretary shall consult with the heads of other departments and agencies of the United States, including the Director, the Administrator of the Environmental Protection Agency, and the Chief of the Soil Conservation Service of the Department of Agriculture.

"(C) STANDARDS BINDING ON FEDERAL AGENCIES.—The standards established as described in subparagraph (A) shall bind all Federal agencies in connection with the administration or implementation of this section.

"(2) DELINEATION OF WETLANDS.—

"(A) IN GENERAL.—The standards established as described in paragraph (1)(A) shall be issued in accordance with this paragraph, and any decision of the Secretary, the Director, or any other Federal officer or employee made in connection with the administration of the standards, shall be made in accordance with this paragraph.

"(B) REQUIREMENTS FOR DELINEATION OF WETLANDS.—For purposes of this section, lands shall be delineated as wetlands only if—

"(i) the lands are wetlands, as defined in section 502;

"(ii) the Secretary finds clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil during the period in which the delineation (to be conducted during the growing season unless otherwise requested by the applicant) is made;

"(iii) the delineation does not result in the classification of vegetation as hydrophytic if the vegetation is equally adapted to dry or wet soil conditions or is more typically adapted to dry soil conditions than to wet soil conditions;

"(iv) the Secretary finds some obligate wetlands vegetation present during the period of delineation (except that if the vegetation is removed for the purpose of evading a requirement of this section, this clause shall not apply);

"(v) the delineation does not result in the conclusion that conditions of wetlands hydrology are present unless the Secretary finds water present at the surface of the lands for at least 21 consecutive days during the growing season (or period requested by the applicant) in which such delineation is made and for 21 consecutive days in the growing seasons in a majority of the years for which records are available; and

"(vi) the lands were not temporarily or incidentally created as a result of adjacent development activity.

"(C) NORMAL CIRCUMSTANCES.—For the purpose of delineating wetlands under this section, a normal circumstance shall be determined on the basis of the factual circumstance in existence on the date a classification is made under subsection (h), or on the date of application under subsection (b), whichever is applicable, if the circumstance has not been altered by an activity prohibited under this section.

"(h) UNITED STATES FISH AND WILDLIFE SERVICE WETLANDS IDENTIFICATION AND CLASSIFICATION PROJECT.—

"(1) IN GENERAL.—The Director, after receiving the concurrence of the Chief of the Soil Conservation Service, shall conduct a project to identify and classify wetlands in the United States. The Director shall complete the project not later than 10 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994.

"(2) STANDARDS FOR CLASSIFYING WETLANDS.—In conducting the project, the Director shall identify and classify wetlands in accordance with the standards for delineation of wetlands established by the Secretary as described in paragraphs (1) and (2) of subsection (g).

"(3) NOTICE AND HEARING.—Before completion of identification and classification of wetlands under paragraph (1), the Director shall provide notice and an opportunity for a public hearing in each county, parish, or borough that includes lands subject to identification and classification.

"(4) PUBLICATION.—Promptly after completion of identification and classification of wetlands under paragraph (1), the Director shall publish information concerning the identification and classification in the Federal Register and in publications of wide circulation and take other steps reasonably necessary to ensure that information concerning the identification and classification is made available to the public.

"(5) RECORDING.—The Director shall, to the fullest extent practicable, record any classification of lands as wetlands under paragraph (1) on the property records in the county, parish, or borough in which the wetlands are located.

"(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, and annually thereafter, the Secretary of the Interior shall prepare and submit to the appropriate committees of Congress a report on implementation of the project conducted under this subsection.

"(i) ADMINISTRATIVE PROVISIONS.—

"(1) PROMULGATION OF FINAL REGULATIONS.—Not later than 1 year after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, the Secretary shall, after notice and opportunity for public comment, issue 1 or more final regulations for the issuance of permits under this section. The regulations shall—

"(A) establish standards and procedures for—

"(i) the classification and delineation of wetlands, and procedures for administrative review of the classification or delineation of wetlands;

"(ii) the review of State or local land management plans and State programs for the regulation of wetlands and waters of the United States;

"(iii) the issuance of general permits on a national, regional, or statewide basis under this section;

"(iv) the issuance of individual permit applications under this section;

"(v) enforcement of this section;

"(vi) administrative appeal of an action by the Secretary denying an application for a permit referred to in subsection (b), or issuing a permit referred to in subsection (b) subject to 1 or more conditions; and

"(vii) any other related area that the Secretary determines necessary or appropriate to implement the requirements of this section; and

"(B) establish requirements governing the establishment of a mitigation bank.

"(2) JUDICIAL REVIEW OF A FINAL REGULATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any judicial review of a final regulation issued pursuant to paragraph (1), and any denial by the Secretary of a petition for the issuance or repeal of a regulation under paragraph (1), shall be conducted in accordance with sections 701 through 706 of title 5, United States Code.

"(B) JURISDICTION OF COURT.—A petition for review of the action of the Secretary in issuing a regulation under paragraph (1), or denying a petition for the issuance or repeal of a regulation under paragraph (1), may be filed only in the United States Court of Appeals for the District of Columbia. The petition for review may only be filed—

"(i) not later than 90 days after the date of issuance or denial; or

"(ii) if the petition for review is based solely on grounds arising after the date of issuance or denial, not later than 90 days after the date the grounds arise.

Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(3) INTERIM REGULATIONS.—

"(A) PROMULGATION OF INTERIM REGULATIONS.—Not later than 90 days after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, the Secretary shall issue interim regulations consistent with paragraph (1). The interim regulations shall become effective on the date of issuance. Notice of the interim regulations shall be published in the Federal Register. Except as provided in subparagraph (B), the interim regulations shall apply until the issuance of final regulations under paragraph (1).

"(B) WAIVER OF INTERIM REGULATIONS.—The Secretary shall provide a procedure for waiving a provision of an interim regulation—

"(i) in a case in which the applicant demonstrates special hardship, inequity, or unfair distribution of burdens; or

"(ii) in a case in which the Secretary determines that a waiver under this subparagraph would advance the purposes of this section.

"(4) AUTHORITY TO CARRY OUT REGULATIONS.—Except as otherwise expressly provided in this section, the Secretary shall be responsible for carrying out this subsection. The Secretary or any other Federal officer or employee in whom any function under this section is vested or to whom any such function is delegated may perform any and all acts (including appropriate enforcement activity), and may prescribe, issue, amend, or rescind any regulation or order the officer or employee may find necessary or appropriate to prescribe, issue, amend, or rescind under this section, subject to the requirements of this section.

"(j) VIOLATIONS.—

"(1) ENFORCEMENT BY SECRETARY.—Whenever the Secretary finds, on the basis of reliable and substantial information and after reasonable inquiry, that a person is or may be in violation of this section or a condition or limitation set forth in a permit issued by the Secretary under subsection (b) the Secretary shall—

"(A) issue an order requiring the person to comply with this section or with the condition or limitation in the permit; or

"(B) bring a civil action in accordance with paragraph (3).

"(2) ORDERS ISSUED BY SECRETARY.—

"(A) COPY OF ORDER SENT TO STATES.—A copy of each order issued under paragraph (1) shall be sent immediately by the Secretary to the Governor of the State in which the violation occurred and the Governor of any other affected State.

"(B) SERVICE.—Except as provided in subparagraph (C), any order issued under paragraph (1) shall—

"(i) be issued by personal service to the appropriate person or corporate officer;

"(ii) state with reasonable specificity the nature of the asserted violation; and

"(iii) specify a period for compliance, not to exceed 30 days, that the Secretary determines is reasonable (taking into account the seriousness of the asserted violation and any good faith efforts to comply with applicable requirements).

"(C) TIME LIMIT ON ORDER.—

"(i) IN GENERAL.—Not later than 150 days after the date of service under subparagraph (B), the Secretary shall—

"(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

"(II) rescind the order issued under paragraph (1) and be estopped from any further enforcement proceeding for the same asserted violation.

"(ii) DISPUTED ORDERS.—If a person receiving service under subparagraph (B) disputes the finding described in paragraph (1) and notifies the Secretary in writing not later than 90 days after the service, the Secretary shall, not later than 60 days after receiving the notification of the dispute—

"(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

"(II) rescind the order and be estopped from any further enforcement proceeding for the same asserted violation.

"(3) CIVIL ACTIONS.—The Secretary may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Secretary may issue an order under paragraph (1). An action commenced under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain the violation and to require compliance. Notice of the commencement of the action shall be given immediately to the Governor of any affected State.

"(4) PENALTIES.—Any person who violates this section or a condition or limitation in a permit issued by the Secretary under subsection (b), or who violates an order issued by the Secretary under paragraph (1), shall be subject to a civil penalty not to exceed $25,000 per day for each violation involved, commencing on the day following expiration of the period allowed for compliance. The amount of the penalty imposed per day shall be in proportion to the scale or scope of the project that results in the violation. In determining the amount of a civil penalty under this paragraph, the Secretary or the Court, as appropriate, shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of a previous violation, any good-faith effort to comply with applicable requirements, the economic impact of the penalty on the violator, and any other matter that justice may require.

"(k) STATE AUTHORITY TO CONTROL DISCHARGES.—Nothing in this section shall affect or impair the right of a State or interstate agency to control activity, including activity of a Federal agency, in waters of the United States within the jurisdiction of the State or interstate agency. Each Federal agency shall comply with a State or interstate requirement, whether substantive or procedural, to the same extent that a person is subject to the requirement. This section shall not affect or impair the authority of the Secretary to maintain navigation.

"(l) STATE REGULATION OF WETLANDS AND WATERS.—

"(1) APPLICATION FOR STATE REGULATION.—The Governor of a State desiring to administer an individual and general permit program for an activity in wetlands or waters of the United States within the jurisdiction of the State shall submit to the Secretary—

"(A) a description of the program proposed to be established and administered under State law; and

"(B) a statement from the chief legal officer of the State that the State law provides adequate authority to carry out the described program.

"(2) DETERMINATION BY SECRETARY.—Not later than 1 year after the date of receipt by the Secretary of a program description and statement under paragraph (1), the Secretary shall determine whether the State has the authority to—

"(A) issue permits that—

"(i) apply, and ensure compliance with, each applicable requirement of this section; and

"(ii) can be terminated or modified for cause, including—

"(I) a violation of any condition or limitation in the permit;

"(II) evidence that the permit was obtained by misrepresentation or failure to disclose fully all relevant facts; or

"(III) a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity;

"(B)(i) issue permits that apply, and ensure compliance with, all applicable requirements of section 308; or

"(ii) inspect, monitor, enter, and require reports to at least the same extent as required under section 308;

"(C) ensure that the public, and any other State in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection, receive notice of each application for a permit under this subsection and provide an opportunity for a public hearing before a ruling on the application;

"(D) ensure that the Secretary receives notice of each application for a permit under this subsection and, prior to any action by the State, ensure that both the applicant for the permit and the State receive from the Secretary information with respect to any advance classification applicable to wetlands or waters of the United States that are the subject of the application;

"(E) ensure that each State (other than the State seeking to issue permits under this subsection) in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection may submit a written recommendation to the permitting State with respect to any permit application and, if any part of the written recommendation is not accepted by the permitting State, ensure that the permitting State will notify the affected State (and the Secretary) in writing of the failure by the permitting State to accept the recommendation together with the reason for the failure by the permitting State to accept the recommendation of the affected State; and

"(F) abate a violation of the permit or the permit program, through a civil or criminal penalty or other means of enforcement.

"(3) APPROVAL OR MODIFICATION OF PROGRAM.—

"(A) APPROVAL OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State has the authority set forth in paragraph (2), the Secretary shall approve the program, notify the State, and suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

"(B) MODIFICATION OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State does not have the authority set forth in paragraph (2), the Secretary shall notify the State and provide a description of any revision or modification necessary so that the State may resubmit the program for another determination by the Secretary under this subsection.

"(4) FAILURE OF SECRETARY TO MAKE DETERMINATION.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary fails to make a determination within 1 year after the date of receipt of the description and statement, the proposed program shall be deemed to be approved pursuant to paragraph (3)(A) on the day that is 1 year after such date, the Secretary shall notify the State of the approval, and the Secretary shall suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

"(5) TRANSFER OF APPLICATIONS.—After approval of a State permit program under this subsection, the Secretary shall transfer to the State for appropriate action any application for a permit pending before the Secretary for an activity with respect to which a permit may be issued pursuant to the State program.

"(6) SUSPENSION OF ENFORCEMENT.—If the Secretary is notified that a State with a permit program approved under this subsection intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e)(6), the Secretary shall, with respect to each activity in the State to which the general permit applies, suspend the administration and enforcement of the general permit.

"(7) CORRECTIVE ACTION.—If the Secretary determines after a public hearing that a State administering a program approved under this subsection is not administering the program in accordance with this section, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable time (not to exceed 90 days after the date of the receipt of the notification), the Secretary shall—

"(A) withdraw approval of the program until the Secretary determines appropriate corrective action has been taken; and

"(B) resume the program for the issuance of permits under subsections (b) and (e)(6) for all activities with respect to which the State was issuing permits, until such time as the Secretary makes the determination described in paragraph (2) and approves the State program again.

"(8) REGULATION BY AN INTERSTATE AGENCY.—For purposes of this subsection:

"(A) GOVERNOR.—The term "Governor" includes the head of an interstate agency.

"(B) STATE.—The term "State" includes an interstate agency.

"(C) STATE LAW.—The term "State law" includes an interstate compact.

"(m) COPIES AVAILABLE TO PUBLIC.—A copy of each permit application submitted, and each permit issued, under this section shall be available to the public. Each permit application or portion of a permit application shall also be available on request for the purpose of reproduction.

"(n) COMPLIANCE WITH PERMIT SATISFIES REQUIREMENTS.—Compliance with a permit issued pursuant to this section, including carrying out an activity pursuant to a general permit issued under this section, shall be deemed, for purposes of sections 309 and 505, to be compliance with sections 301, 307, and 403.

"(o) EFFECTIVE DATE FOR PERMIT PROVISIONS.—After the 90th day after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, no permit for an activity in wetlands or waters of the United States may be issued except in accordance with this section. Any permit for an activity in wetlands or waters of the United States issued prior to the 90th day shall be deemed to be a permit under this section and shall continue in force and effect for the term of the permit unless revoked, modified, or suspended in accordance with this section. An application for a permit pending under this section on the 90th day shall be deemed to be an application for a permit under this section.

"(p) LIMIT ON FEES.—Any fee charged in connection with—

"(1) the delineation or classification of wetlands;

"(2) an application for a permit authorizing an activity in wetlands or waters of the United States; or

"(3) any other action taken in compliance with the requirements of this section (other than a penalty for a violation under subsection (j));

shall not exceed the amount of the fee in effect on January 1, 1990.".

SEC. 4. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraph:

"(21) WETLANDS.—The term 'wetlands' means lands, such as swamps, marshes, bogs, and similar areas, that have a predominance of hydric soils and that are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 119(c)(2)(E) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(2)(E)) is amended by striking "wetland" and inserting "wetlands".

(b) Section 208(b)(4)(B)(iii) of the Federal Water Pollution Control Act (33 U.S.C. 1288(b)(4)(B)(iii)) is amended by striking "the guidelines established under section 404(b)(1), and" and inserting "section 404, and with the guidelines established under".

(c) Section 309 of such Act (33 U.S.C. 1319) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1), by striking "or 404"; and

(B) in paragraph (3), by striking "or in a permit issued under section 404 of this Act by a State";

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State";

(B) in paragraph (2)(A), by striking "or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State"; and

(C) in the first sentence of paragraph (3)(A), by striking "or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State,";

(3) in the first sentence of subsection (d), by striking "or in a permit issued under section 404 of this Act by a State,"; and

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) VIOLATIONS.—If the Administrator finds, on the basis of any information available, that a person has violated section 301, 302, 306, 307, 308, 318, or 405, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 by the Administrator or by a State, the Administrator may, after consultation with the State in which the violation occurred, assess a class I civil penalty or a class II civil penalty under this subsection.";

(B) in the third sentence of paragraph (2)(B), by striking "and the Secretary";

(C) in paragraph (6)(A)(iii), by striking ", the Secretary,";

(D) by striking "or Secretary, as the case may be," and "or the Secretary, as the case may be," each place they appear; and

(E) by striking "or Secretary", "or the Secretary", and "or Secretary's" each place they appear.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall become effective 90 days after the date of enactment of this Act.

THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1994

The protection of America's wetlands is a crucial public issue that deserves significant national priority. The Pressler bill is designed to conserve true wetlands and balances wetlands protection with protection of private property rights. More important the bill contains provisions that would require fair and just compensation to the owners for the loss of or use of land classified as wetlands.

The Pressler bill would:

Assure that functionally important wetlands are protected.

Classify wetlands by value and function. Certain wetlands would be classified as wetlands with critical significance to the long-term conservation of the ecosystem of which they are a part of. Other would be classified as providing habitat for significant wildlife populations, protection water quality or significant natural flood control, and others as marginal wetlands.

Provide safeguards so that large amounts of land with little or no true wetland characteristics will be classified as wetland.

Require compensation be provided to landowners for the loss of economic use of private lands.

Clarify and reinforce current law that provides an exemption from individual permit requirements for normal farming and ranching activities on farmed wetlands.

Exempt from regulation all prior converted agricultural land since this land no longer exhibits any wetland characteristics.

Establish three criteria in designating wetlands. Criteria to be met and verified would be presence of water, hydric soils and hydrophytic vegetation.

Prairie potholes and playa lakes would be treated and regulated as other areas as possible wetland areas. Under the Pressler bill, prairie potholes would receive same treatment as all wetlands and not be kept under stricter rules and regulations.

Exclude man-made or artificial wetlands such as farm ponds and irrigation ditches.

WILL YOUR WETLAND DETERMINATIONS CAUSE ANY PROBLEMS?

FEARFUL OF FUTURE IMPACT

(By Gene Stehly)

Wetland determinations have just been completed on Gene Stehly's farm near Mitchell, S.D. While they haven't affected the way he farms, he's concerned about what the future may hold.

"A surprisingly large amount of our land is involved. Many of the areas that have been declared wetlands we don't think have ever been wet," says Stehly, who farms with his brother Craig and father Don. "I think they got a little carried away. They even designated wetlands in fields that we irrigate with center-pivot systems. Those areas wouldn't be wet if we didn't irrigate."

The Stehlys pride themselves on being environmentally concerned. They use no-till extensively and keep chemical use to a minimum. "We feel we already do a good job protecting the environment. It will be really disturbing if the government comes in and tells us we're not able to continue farming that way on these areas. We're basically in a wait-and-see mode," says Stehly.

WETLANDS REGULATIONS OFTEN CONFUSE, ANGER MANY FARMERS—LANDOWNERS, ENVIRONMENTALISTS DEBATE PROPER USE OF LAND

(By Carson Walker)

LAKE PRESTON.—When Brian Odden plowed a field near here last October he thought he was merely turning under weeds that accumulated after heavy rains in 1993.

When he finished plowing, he made one last furrow across the field to keep water from building up on the black soil.

In the spring, federal officials told him that furrow violated federal wetlands regulations because it allowed water to drain from the nearby wetland. The violation could cost him thousands of dollars in fines. The fines are paid through reduced federal farm payments, including crop insurance and disaster payments.

For Odden, 42, the payment cuts could drive him off the farm.

"When I first learned of the violations, I thought it was a joke. They can call my FHA loans, take away disaster and crop deficiency payments and fine me on top of that," he said.

The laws are designed to protect ground water, waterfowl and to provide flood control, said Carl Madsen, private lands coordinator for the U.S. Fish and Wildlife Service in Brookings.

The problem is that today's wetlands regulations are a reversal of what the government has encouraged in the past. Farmers don't understand or agree with those changes.

"We're going against the grain of nearly 100 years of tradition in the Midwest. The homesteaders were encouraged to drain the land and make it productive and took much pride in doing that. Here we are in 1994, and we have a lot more information than in 1894 on these wetlands," Madsen said.

Odden—who rents the 25-acre field in question—said he didn't know the furrow violated a law. When he was notified, he filled it.

Local conservation officials determined that the furrow Odden plowed had a minimal effect on the wetlands and recommended the issues be dropped.

But state officials disagreed. Odden appealed to the Soil Conservation Service in Washington and is awaiting a final ruling.

Odden is caught up in a nationwide debate that has pitted farmers and landowners against environmental laws over what is the proper use for their land.

Last week, farmers and conservation officials gathered in Sioux Falls to study proposed changes in conservation rules.

Wayne Burkhart of Dell Rapids was one of the 125 who attended.

"The people involved with wetlands just don't use any common sense," Burkhart told a panel.

PURPOSE OF WETLANDS LAWS

But Madsen of the U.S. Fish and Wildlife Service in Brookings, said the national policy is necessary to protect the remaining wetlands.

"In all of this it's a clear expression of the people of this nation through Congress in legislation that these wetland values are of great enough value that we will impose these restrictions on people who choose to drain wetlands," he said.

His advice for any landowner is to check with the local soil conservation office before moving soil that could pose a drainage problem.

Irving Wessel, 66, of Huron doesn't participate in federal farm programs. He said he doesn't take the payments because he doesn't want the government telling him what he can do with his hand.

But he must comply with the Clean Water Act and ask the U.S. Army Corps of Engineers for permission before draining a wetland.

"If you've got erodible lands, you have to get permission before you can disc it," he said. "This is getting far out. We've got more to do than run back and forth to town to talk to them people."

Madsen understands the farmers' concerns.

"I can understand a guy's reluctance to ask the government's permission on what they can do with their own land. But it's been around nearly 10 years and it's time we get used to it," Madsen said.

STRESS ON FAMILIES

Odden said the threat of penalties worries his whole family.

His 8-year-old son, Adam, has picked up on the issue by overhearing telephone calls.

"On a daily basis we're living and breathing this thing because it could break us," Odden said. "The other day he said, 'Daddy are you going to prison?' I said, 'No I'm not going to prison.'"

Even the people who enforce the regulations say it's sometimes painful.

Gary Coplan, area conservationist with the Soil Conservation Service in Brookings, said conservation officials get along well with most farmers and understand their frustration.

"Our people would like to help farmers," Coplan said. "It's kind of a stress level on both sides."

PENALTIES DON'T FIT CRIME

Part of the swamp-buster regulation in the Farm Bill allows federal officials to multiply penalties by the number of owners.

For Odden, that means the fines could be worse because he and his family farm as a corporation. Any penalty could be multiplied by five—to include himself, his brother, parents and the corporation itself.

Even some of the officials who enforce the regulations wonder if they are too rigid.

Once the Soil Conservation Service determines a wetland has been drained, the Agricultural Stabilization and Conservation Service enforces the penalty.

ASCS uses a formula that does take into consideration whether the action was intentional or accidental, whether it is the farmer's first offense or whether they agree or disagree with the farmer's guilt.

"It's straightforward," said Larry Somsen, ASCS executive director for Kingsbury County. "They either lose all their benefits or if they can demonstrate (to the Soil Conservation Service) it was done in good faith, they are penalized based on the size of wetland," Somsen said. "It is a severe penalty and it's probably more than what it should be, but we follow what's in our procedure. At the local level we have very little discretion what we can do."

Even if the farmer takes care of the problem, the penalty could still reach $10,000.

In addition to losing their own property rights, farmers say the federal rules take control away from local agencies.

In the last several years, the movement has been away from local control and toward strict review of the law by the federal government, they say.

Odden's lawyer and Kingsbury County State's Attorney Todd Wilkinson of DeSmet said most farmers direct their anger not toward the local officials enforcing the rules, but the law itself.

"When you start seeing the local offices lose the ability to judge a situation and they're there firsthand, it would appear the regulations are being interpreted strictly," Wilkinson said.

But John Davidson, a University of south Dakota law professor and Clay county conservationist, said the goal of the laws is clear.

South Dakota is part of the last viable nesting area for waterfowl in the northern United States, he said. Davidson equates wetland destruction to filling in the Missouri River or flattening the Black Hills because they all are valuable natural resources.

Swamp-buster rules are set up to penalize farmers who threaten that resource, he said.

He said most people who drain wetlands do so knowingly and most cases are not accidental.

"What that says to farmers is you're free to drain, but you can't drain and get federal handouts," Davidson said. "These people want it both ways. They want the honey tree of federal money and they want to drain their wetlands."

WETLAND REGULATIONS TAKE MERCILESS HOLD AFTER MISHAP IN FIELD

(By Carson Walker)

OLDHAM.—A tire track left by a field sprayer introduced Greg Duffy to the world of wetlands regulations.

Last summer, when the field was still wet from heavy rains, a chemical applicator got stuck in his field between two wetland areas. The large ruts it left behind blocked the natural flow of water between the two wetlands.

After heavy rains in July water ran from the upstream wetland, around the ridges created by the tire tracks, causing soil erosion on the farmland, Duffy said.

In the fall, Duffy plowed a furrow across the ridges, from one wetland to another so the water would drain along its natural path.

Local conservation officials decided the furrow had minimal effect on the water flow. State officials, however, determined that the water loss was substantial.

Duffy disagrees and has appealed the case to the Soil Conservation Service in Washington, D.C.

"It was making two washouts instead of going where the water originally went. I had no intention of farming that wetland," he said. "This was done in the stewardship of the soil."

Even though he fixed the problem within two hours of being notified of the violation, Duffy still faces penalties that could be as high as $35,000.

"There are some in Kingsbury County that are flagrant violations. Mine isn't," he said.

Conservation officials would not discuss the specifics of the case.

Wetlands laws apply not just to farmers, but to property owners in the city as well.

The regulations extended by two years the opening of the Randall's Food Store in Huron, said Kevin Scheel, store manager.

Store owners had to get a permit to fill in a wetland area so the store could be built. At the time the area was a field on the edge of town. They acquired the permit, but it took time.

"I think it was fairly handled," Scheel said. "The process is what takes the most time."

David Ridenour of Washington, D.C., vice president of the National Center for Public Policy Research, said wetlands laws now do more harm than good.

"We have lost sight of what the real goal is," he said. "Environmental regulation is there to enhance the lives of people and when you cause people to suffer because of excessive regulations, you've lost sight of what your goal was to begin with."

KINGSBURY CONSERVATION DISTRICT,
De Smet, SD, June 8, 1994.

DAVE GILBERT,
Refuge Manager, U.S. Fish and Wildlife Service, Madison, SD.

DEAR DAVE: This letter is in response to the rash of converted wetlands (CW's) that we have had in Kingsbury County in the spring of 1994. As a local unit of Government, we as members of the Kingsbury Conservation District (CD) have received many calls from landowners, operators and others concerning these CW's. In checking with the De Smet SCS office, we have found that a total of 7 possible wetland violations were reported this spring. Of that total, 5 possible violations occurred on land containing US Fish & Wildlife Service Easement Wetlands. Of the four operators involved, none of these operators had knowledge of operating land where US Fish & Wildlife Easement Wetlands existed. In our opinion, that represents a lack of communication between US Fish & Wildlife and the operators of those particular tracts of land.

USDA (ASCS-SCS) and the conservation district also has a controversial program to administer, Highly Erodible Land Compliance. In calender year 1994, Kingsbury County had 24 conservation compliance (CC) plans scheduled for implementation. SCS notified, by letter, all operators of any tract of land that was to be implemented in 1994. The operators were also sent a map delineating each HEL field by Tract, Section, Twp., Range. All but 2 or 3 of those operators came into the SCS office to discuss cropping and residue options on those HEL fields. The notification by mail represents a 100% attempt to inform all operators of HEL fields that they must have an approved C–C plan if they participate in USDA Programs.

The CD Board is formally requesting that the FWS seriously consider making a yearly contact with all new landowners/or new operators of tracts of land that contain US Fish and Wildlife easement wetlands. During that contact, FWS could tell those operators how those wetlands can be used.

To help illustrate the enormous potential for uninformed operators farming US Fish and Wildlife Easement Wetlands, please consider the following: According to SCS and ASCS records Kingsbury County has 864 sections; of that total 371 (43%) have at least 1 US Fish and Wildlife Wetland Easement. 864 sections equates to roughly 552,960 acres. SCS records show 94,940 acres of US Fish and Wildlife Wetland Easement acres. Roads, large bodies of water, federal land, railroad and land occupied by cities equals approximately 62,280 acres. 552,9600 − 62,280 = 490,680 acres of land that is farmed, hayed or pastured. The 94,940 acres of easement land then represents roughly 20% of land farmed or controlled by a farming interest in Kingsbury County.

ASCS records show that Kingsbury County has 1150 active farms and they have an average of 120 recons per year (tract divisions, operator changes, owner changes, farms combined or divided, etc.,) those 120 recons affect about 200 farms per year, (roughly 17% of all ASCS farms), using this equation 20% or 95,000 acres of all Kingsbury farmed land (crop and pasture) is under easement. With 17% of all ASCS farms having some change in ownership, new operator or division etc. There is a potential for 16,000 acres of U.S. Fish and Wildlife easement acres with some farm operation change in any given year. We are not saying that this does happen but it could happen.

As a board, we have also requested that ASCS look into the possibility of adding a U.S. Fish and Wildlife Wetland Easement flag to their sign-up procedure. When the operator signs up for the farm program, the easement flag is triggered. A list of names and addresses could then be forwarded to FWS in Madison or Huron, so they could inform producers that FWS has a perpetual wetland easement and it does exist on a tract of land that the operator will be farming in any given crop year.

We are not saying or implying that converted wetlands only occur on FWS easement wetlands but that the probability exists for more potential violations as the U.S. Fish and Wildlife easements are checked annually. Just for information, SCS statewide has a 5% random spot check of HEL tracts where Scope and Effect wetlands data from the office and from the field is checked. ASCS also has a spot-check process with its wheat and feed grain programs.

The CD with SCS and ASCS will devote 1 page annually to the ASCS newsletter in an attempt to inform producers about wetlands and their use for production that relates to USDA benefits.

In the past, our CD board and FWS has successfully co-operated on 2 joint ventures; (1) use of grass drills enroute to a grass drill purchased by Kingsbury County CD and (2) a much appreciated contribution with the Spirit Lake Grassland project. We sincerely hope that this co-operation would continue, with an effort to build a successful information/education program with landowners/operators participating in USDA programs and farming U.S. Fish and Wildlife perpetual easement wetlands.

We await your response.

Sincerely,

ALAN J. VEDVEI,
Chairman.
OTTO F. SCKERL,
Secretary.

WETLAND SLOWS WORK ON SCHOOL—BUILDERS DON'T HAVE PERMITS TO DRAIN SITE

WATERTOWN.—A wetland near a new $2.9 million elementary school could delay construction on the project, officials said.

Workers building the new school have removed about 7,000 cubic yards of soggy earth and dug two trenches to drain water from the wetland, on one corner of the 25-acre parcel.

But the school's builder has not gotten the necessary state and federal permits.

State and federal officials say construction of the school could be delayed until those permits are granted.

"We will do whatever we have to do to comply," said Watertown School Superintendent Ernie Edwards. "It appears (some) people are doing everything they can to sabotage this project."

Architect Jim Pope, who designed the school, said building contractor Meide and Sons Inc. of Wahpeton, N.D., discussed the problem Monday with state officials.

"We were told we need a . . . permit that would cover what we have to do at this point," Pope said. "Meide should have made contact for this permit before the trench was cut. That's hindsight."

Pope said he did not know whether the school's contractors planned to apply for a permit from the U.S. Army Corps of Engineers.

Corps official Jim Oehlerking said the project probably needs a federal permit, too.

"There appears to be a potential . . . violation," Oehlerking said. "We may have to investigate the circumstances to see if this has occurred."

If the U.S. Environmental protection Agency finds that rules were broken, the project's contractor probably would be asked to help restore the wetland rather than pay a fine.

By Mrs. FEINSTEIN:

S. 2491. A bill to amend the Defense Authorization Amendments and Defense Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 to improve the base closure process, and for other purposes; to the Committee on Armed Services.

BASE CLOSURE COMMUNITY REDEVELOPMENT ACT

• Mrs. FEINSTEIN. Mr. President, today I am introducing the Base Closure Community Redevelopment Act of 1994—legislation designed to improve the military base closure and reuse process by, among other things, reducing Government bureaucracy and empowering local communities.

In particular, this legislation would place base reuse decisions in the hands of local officials and balance economic redevelopment interests with the needs of the homeless in a commonsense manner.

As many of my colleagues know, since 1988, nearly 250 military bases have been closed or realigned under the BRAC process. While painful for States and regions, base closures can be devastating for local communities. A closing military base not only means job loss, but also translates into reduced local tax revenues, higher housing vacancy rates, and increased business failures.

Base closures, though, also create economic opportunities for localities that can expedite reuse through effective redevelopment. But, conversion of military bases has proven to be anything but quick or simple. Communities across the country have struggled to make sense of complex Federal laws and regulations that were never designed to deal with military base closures. The current process is cumbersome and conflicting, and poses difficulties for local, State, and Federal authorities trying to make decisions and dispose of base property in a timely manner. Increasingly, opportunities for job creation and economic redevelopment are lost.

In order to respond to this problem, President Clinton developed a five-part base community reinvestment program early last year. The Pryor amendment to the fiscal year 1994 Defense Authorization Act followed—it was designed to basically implement the President's program for accelerating the base reuse process and make it easier for communities with closing military bases to transition to a commercial economy. Under the Pryor amendment, local communities are empowered in the reuse process with the goal to reduce the time it takes to turn closing base property over to communities and foster job creation and economic development.

The President's five part program and the Pryor amendment are certainly steps in the right direction, and I strongly support both. However, because the base reuse problem is so difficult, the President's program and the Pryor amendment have only partially improved the process; obstacles to rapid base reuse remain. Additional action is needed to further improve the process and remove or mitigate some of the remaining obstacles to rapid base reuse.

This legislation—much of which is based on recommendations contained in the "California Military Base Reuse Task Force" report—builds on last year's Pryor amendment to further improve the base reuse process. A local redevelopment authority would develop a reuse plan on the local level, balancing the needs of all community and economic development interests.

Under current law, potential homeless assistance providers apply for base property under the McKinney Homeless Assistance Act; the Department of Health and Human Services then denies or approves each request. The McKinney Act—which was enacted before the BRAC process began—has worked relatively well for small parcels of excess Federal property, but was never intended for large military bases.

This bill exempts military bases from the McKinney Act; instead, homeless assistance providers and other community groups would be given a voice in the new reuse planning process. A local development plan, developed in consultation with homeless assistance planning boards, would weigh the needs of economic redevelopment and job creation with homeless assistance. The Secretary of Housing and Urban Development would review the local redevelopment plan to ensure that it reasonably addresses the needs of the homeless, but eccnomic redevelopment priorities would also be considered in a process that balances competing interests.

In addition to the section relating to homeless use of military bases, this bill contains several other provisions. First, it requires the Secretary of Defense to submit yearly reports to the President, the Congress, and the Governors of States with closing military bases. The reports will detail the costs of environmental cleanup at closing military bases incurred during the previous year and estimate the funds needed to fund environmental cleanup at the bases the following year. This estimate would give us our best estimate yet of environmental cleanup costs and could serve as a basis for congressional decisions on the amount of funds that should be appropriated for cleanup each year.

Second, this bill allows for the designation of 20 additional Enterprise Communities nationwide. In order to be eligible, the additional communities must all be in areas affected by base closure or realignment. The Enterprise Communities shall be nominated by the Secretary of Defense and will be eligible for tax-exempt bond financing and other benefits for which Enterprise Communities are currently eligible. The Enterprise Communities should serve as an incentive for businesses to locate in the area and will stimulate economic growth in areas that badly need it. The Joint Committee on Taxation has estimated that the cost of the additional enterprise zones will be $31 million over 5 years, which can be paid for through reductions in other spending.

Third, a provision requires the Secretary of Defense to consult with the redevelopment authority over the procedures used for the appraisal of property at closed military bases. If the Defense Department and the redevelopment authority have different estimates of the value of the property, a third party jointly selected by the Defense Department and the redevelopment authority—that is, an independent appraiser—shall determine the value of the property. This provision will compel the Defense Department to work with the redevelopment authority when the value of property at closing bases is being appraised. When the value is in dispute, and the redevelopment authority believes the Defense Department has overvalued the property, this provision creates a mechanism that will help solve the conflict.

Fourth, the legislation requires the Secretary of Defense, in consultation with local officials, to determine the reduction in emissions resulting from a

base closure, following procedures laid forth by the Clean Air Act. If not needed by another installation in the air quality control region as an offsetting emission reduction, the reduction shall be made available to the entities redeveloping the installation.

If the emissions from the base are not quantified as credits and subsequently made available to new businesses locating at the base, the businesses will be constrained from emitting any pollution whatsoever. In effect, the base closure community will singlehandedly help the air quality control region meet its pollution goals. This will place a heavy burden on that community and severely hamper its redevelopment efforts. My legislation will allow for economic development of the closing base property while it either holds pollution at a constant level or decreases it.

Fifth, a provision allows the Secretary of Defense to use a single entity to carry out all—or any part—of the environmental cleanup at closing military bases. This procedure is also known as cradle-to-grave contracting. Cradle-to-grave contracting can simplify the cleanup process and make it easier to assign responsibility for any problems that may arise. Currently, most cleanup efforts involve numerous contractors in different stages of the cleanup effort. This leads to duplication of effort—which wastes time and money—and makes it difficult to assign responsibility and liability if problems arise. Cradle-to-grave contracting can solve these problems.

Sixth, the legislation directs the Secretary of Defense to reimburse businesses locating at closed military bases for economic losses caused by environmental hazards inadvertently or negligently left behind by the Defense Department. Many businesses are understandably worried about what will happen to them if they locate on supposedly clean property at a closed military base, and toxic waste is subsequently found. Obviously, their business would suffer. By providing for reimbursement of business losses, this provision will remove some of the risk that businesses are faced with when they consider locating on a closed base.

Finally, this legislation will extend the eligibility for Federal Community Reinvestment Act credit to private lenders who provide loans to base closure communities. Currently, Federal financial supervisory agencies examine a lending institution's record of meeting the credit needs of low- and moderate-income neighborhoods. This provision will extend the examination in base closure communities to include the institution's record of meeting the credit needs of the entire community affected by base closure or realignment. This provision will provide lenders with an incentive to provide loans to businesses in areas affected by base closures, which will stimulate economic growth.

My staff has worked very closely with Governor Wilson's office and other interested parties, on a bipartisan basis, in developing and drafting the Base Closure Community Redevelopment Act of 1994. In particular, section 2 of the bill, relating with the homeless use of military bases, was drafted in consultation with an administration interagency working group consisting of representatives from DOD, HUD, HHS, GSA, and the Council on the Homeless, as well as staff from the Armed Services, Banking and Housing, and Governmental Affairs Committees in both the House and Senate.

Another base closure round is fast approaching that could be larger than the first three BRAC rounds combined; it will affect communities across the country. This timely legislation will improve the reuse process for those bases already slated for closure, as well as for bases yet to close. It will also help accomplish a very important objective—the acceleration of the economic redevelopment process for communities suffering from the closure or realignment of military bases. This is important legislation that is badly needed in base closure communities throughout the country. I urge all of my colleagues to support the Base Closure Community Redevelopment Act of 1994.

I ask unanimous consent that a summary of the entire legislation, a concept paper of section, and the full text of the bill be printed in the RECORD.

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

S. 2491

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 "Base Closure Community Redevelopment Act of 1994".

SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

(a) IN GENERAL.—Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Determinations of the use to assist the homeless of buildings and property located at installations approved for closure under this part after the date of the enactment of this paragraph shall be determined under this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determination referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination) information on any building or property that is identified under subclause (II); and

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been established as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and

"(II) in the case of an installation for which a redevelopment authority is not established as of such date, not earlier than 3

months and not later than 6 months after the date of the establishment of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

"(II) notify the Secretary of Defense of the date.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) An assessment of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan and the organizational capacity of the representative to carry out the program.

"(VI) An assessment of the time required in order to commence carrying out the program.

"(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

"(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

"(ii)(I) In preparing a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J).

"(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

"(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

"(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 1 year after the date specified by the redevelopment authority for the installation under subparagraph (D).

"(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall include in an application under clause (i) the following:

"(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

"(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

"(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

"(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

"(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

"(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

"(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan—

"(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan to meet the needs of the homeless in such communities;

"(II) takes into consideration, in regards to the expressed interest and requests of representatives of the homeless, the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

"(III) includes copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii);

"(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

"(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

"(ii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

"(iii) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

"(iv) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iii) shall include—

"(I) an explanation of that determination; and

"(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

"(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

"(I) revise the plan in order to address the determination; and

"(II) submit the revised plan to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall submit a revised plan under this subparagraph to the Secretary of Housing and Urban Development, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

"(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan for purposes of determining if the plan meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

"(K) Upon receipt of a notice under subparagraph (H)(iii) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property located at the installation that are identified in the plan as available for use to assist the homeless in accordance with the provisions of the plan. The Secretary of Defense may dispose of such buildings or property directly to the representatives of the homeless concerned or to the redevelopment authority concerned.

"(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if not revised plan is so submitted, that Secretary shall—

"(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

"(II) consult with the representatives referred to in subclause (I), if any, for purposes

of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

"(III) request that each such representative submit to that Secretary the items described in clause (ii); and

"(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

"(I) A description of the program of such representative to assist the homeless.

"(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) The Secretary of Housing and Urban Development shall indicate to the Secretary of Defense and to the redevelopment authority concerned the buildings and property at an installation under clause (i)(IV) to be disposed of not later than 90 days after the date of a receipt of a revised plan for the installation under subparagraph (J).

"(iv) The Secretary of Defense shall dispose of the buildings and property at an installation referred to in clause (iii) to entities indicated by the Secretary of Housing and Urban Development or by transfer to the redevelopment authority concerned for sale, exchange, lease, permit, or transfer to such entities. Such disposal shall be in accordance with the indications of the Secretary of Housing and Urban Development under clause (i)(IV).

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K), the redevelopment authority for the installation shall be responsible for the implementation of agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense with respect to activities under this paragraph that are under the jurisdiction of that Secretary and the Secretary of Housing and Urban Development with respect to activities under this paragraph that are under the jurisdiction of that Secretary may, in consultation with the redevelopment authority concerned, postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation.".

(b) DEFINITIONS.—Section 2910 of such Act is amended by adding at the end the following:

"(10) The term 'representative of the homeless' has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4).".

(c) CONFORMING AMENDMENT.—Section 2905(b)(6)(A) of such Act is amended by adding at the end the following: "For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).".

(d) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act, and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5)(A) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act and are pending with that Secretary on that date; and

(B) incorporate in the plan an accommodation of the needs of the homeless on or off the installation that is at least substantially equivalent to the accommodations of the needs of the homeless that were provided for in any such applications that were so received before such date and were approved by that Secretary before that date.

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term "1988 base closure Act" means the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The term "1990 base closure Act" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(e) CLARIFYING AMENDMENTS TO BASE CLOSURE ACTS.—(1) Section 204(b)(6)(F)(i) of the Defense Authorization Amendments and Base Closure Act and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which are not identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

(2) Section 2905(b)(6)(F)(i) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which are not identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

SEC. 3. REPORTS ON COSTS OF ENVIRONMENTAL REMEDIATION AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) REPORTS REQUIRED.—(1) Not later than January 30 of each year in which the Secretary of Defense will undertake activities relating to the closure or realignment of a military installation approved for closure or realignment under a base closure law, the Secretary shall submit to the President, Congress, and the chief executive officer of each State in which such an installation is located the report referred to in paragraph (2).

(2) The report referred to in paragraph (1) shall—

(A) describe the costs, if any, incurred by the Secretary during the previous year in carrying out environmental restoration, waste management, and environmental compliance activities at the installation; and

(B) include an estimate of the amounts required by the Secretary during the year in which the report is submitted in order to carry out environmental restoration, waste management, and environmental compliance activities at the installation in accordance with the base realignment and closure cleanup plan for the installation.

(b) DEFINITIONS.—In this section:

(1) The term "base closure law" means the following:

(A) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) The term "base realignment and closure cleanup plan", with respect to a military installation, means the plan for the expeditious environmental cleanup necessary to facilitate conveyance of the property of the installation to communities for economic redevelopment.

SEC. 4. DESIGNATION OF AREAS AFFECTED BY BASE CLOSURES AND REALIGNMENTS AS ENTERPRISE COMMUNITIES.

(a) DESIGNATION.—Section 1391(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL ENTERPRISE COMMUNITIES FROM BASE CLOSURE AREAS.—

"(A) IN GENERAL.—The appropriate Secretaries may, in addition to any designations under paragraph (1), designate 20 nominated areas as enterprise communities but only if the nominated areas are areas affected by the closure or realignment of a military installation under a base closure law.

"(B) DEFINITION.—In this paragraph, the term 'base closure law' means the following:

"(i) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(ii) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

(b) CRITERIA.—Section 1392 of such Code is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR BASE CLOSURE AREAS.—In the case of a designation under section 1391(b)(3), subsection (a) shall not apply."

(c) APPROPRIATE SECRETARY.—Section 1393(a)(1) of such Code is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the Secretary of Defense in the case of a designation of a nominated area under section 1391(b)(3).".

SEC. 5. APPRAISAL OF PROPERTY AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) UNDER 1988 ACT.—Section 204(b)(4) of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D)(i) Before determining the estimated fair market value of any real property or personal property to be transferred under this paragraph, the Secretary shall—

"(I) notify the redevelopment authority concerned of the guidelines and procedures to be used by the Secretary in determining such fair market value; and

"(II) incorporate into such guidelines and procedures any recommendations of the redevelopment authority that the Secretary considers appropriate.

"(ii) In the case of transfer of any real property or personal property referred to in clause (iii), the fair market value of the property upon transfer shall be—

"(I) the amount jointly determined by the Secretary and the redevelopment authority concerned; or

"(II) if the Secretary and the redevelopment authority cannot agree upon an amount under subclause (I), the amount determined by an appropriate third party jointly selected by the Secretary and the redevelopment authority for the purpose of such determination.

"(iii) Clause (ii) applies any to real property or personal property that may be transferred under this paragraph if the estimated fair market value of such property, as determined by the Secretary, exceeds the estimated fair market value of such property, as determined by the redevelopment authority concerned, by the greater of—

"(I) the amount equal to 25 percent of the fair market value of such property as determined by the redevelopment authority; or

"(II) $500,000.".

(b) UNDER 1990 ACT.—Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D)(i) Before determining the estimated fair market value of any real property or personal property to be transferred under this paragraph, the Secretary shall—

"(I) notify the redevelopment authority concerned of the guidelines and procedures to be used by the Secretary in determining such fair market value; and

"(II) incorporate into such guidelines and procedures any recommendations of the redevelopment authority that the Secretary considers appropriate.

"(ii) In the case of transfer of any real property or personal property referred to in clause (iii), the fair market value of the property upon transfer shall be—

"(I) the amount jointly determined by the Secretary and the redevelopment authority concerned; or

"(II) if the Secretary and the redevelopment authority cannot agree upon an amount under subclause (I), the amount determined by an appropriate third party jointly selected by the Secretary and the redevelopment authority for the purpose of such determination.

"(iii) Clause (ii) applies any to real property or personal property that may be transferred under this paragraph if the estimated fair market value of such property, as determined by the Secretary, exceeds the estimated fair market value of such property, as determined by the redevelopment authority concerned, by the greater of—

"(I) the amount equal to 25 percent of the fair market value of such property as determined by the redevelopment authority; or

"(II) $500,000.".

SEC. 6. CREDIT FOR REDUCTION IN EMISSIONS OF AIR POLLUTANTS AS A RESULT OF THE CLOSURE OF MILITARY INSTALLATIONS.

(a) UNDER 1988 ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following:

"(e) CREDITS FOR EMISSIONS OF AIR POLLUTANTS.—(1)(A) The Secretary of Defense shall determine the amount of the reduction in the emission of air pollutants that will result from the cessation of activities of the Department of Defense at a military installation approved for closure under this title. The Secretary shall determine such amount with respect to each air pollutant emitted by the installation.

"(B) The Secretary shall determine the amount of the reduction in the emission of an air pollutant under subparagraph (A) with respect to an installation in a manner consistent with the determination of rates of emission of the air pollutant under the plan established under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(2) Notwithstanding any other provision of law, the Secretary, in consultation with the redevelopment authority concerned, shall—

"(A) use the amount of the reduction in the emission of an air pollutant under paragraph (1) as an offsetting emission reduction against the emission of the air pollutant by the Department of Defense at another installation within the same air quality control region as the installation achieving the reduction; or

"(B) if the Secretary determines that such use is not desirable or necessary, by making the amount of the reduction available to a person or entity in accordance with paragraph (3).

"(3)(A) Notwithstanding any other provision of law, a person or entity referred to in

subparagraph (B) may use the amount of an air pollutant emission reduction referred to in subparagraph (C) as an offsetting emission reduction against the emission of the air pollutant by the person or entity as a result of the operations of the person or entity at the installation referred to in subparagraph (B) for purposes of compliance with a plan established under title I of the Clean Air Act for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(B) Subparagraph (A) applies to any person or entity—

"(i) who is the transferee from the Secretary of Defense under this section of any real property or facility located at a military installation approved for closure under this title; and

"(ii) who owns or operates a major stationary source (as used under section 182 of the Clean Air Act (42 U.S.C. 7511a)) at the property or facility.

"(C) The amount of the offsetting air pollutant emission reduction available to a person or entity under subparagraph (A) as the result of the closure of a military installation is the lesser of—

"(i) the amount of the air pollutant that the air quality planning agency for the air quality control region in which the installation is located determines will be emitted by the major stationary source owned or operated by the person or entity at the property or facility; or

"(ii) the amount of the reduction in the emission of the air pollutant for the installation as determined under paragraph (1).

"(4) For purposes of this subsection, the term 'air pollutant' shall include each air pollutant required to be offset under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.) or under applicable State law.".

(b) UNDER 1990 ACT.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following:

"(f) CREDITS FOR EMISSIONS OF AIR POLLUTANTS.—(1)(A) The Secretary of Defense shall determine the amount of the reduction in the emission of air pollutants that will result from the cessation of activities of the Department of Defense at a military installation approved for closure under this part. The Secretary shall determine such amount with respect to each air pollutant emitted by the installation.

"(B) The Secretary shall determine the amount of the reduction in the emission of an air pollutant under subparagraph (A) with respect to an installation in a manner consistent with the determination of rates of emission of the air pollutant under the plan established under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(2) Notwithstanding any other provision of law, the Secretary, in consultation with the redevelopment authority concerned, shall—

"(A) use the amount of the reduction in the emission of an air pollutant under paragraph (1) as an offsetting emission reduction against the emission of the air pollutant by the Department of Defense at another installation within the same air quality control region as the installation achieving the reduction; or

"(B) if the Secretary determines that such use is not desirable or necessary, by making the amount of the reduction available to a person or entity in accordance with paragraph (3).

"(3)(A) Notwithstanding any other provision of law, a person or entity referred to in subparagraph (B) may use the amount of an air pollutant emission reduction referred to in subparagraph (C) as an offsetting emission reduction against the emission of the air pollutant by the person or entity as a result of the operations of the person or entity at the installation referred to in subparagraph (B) for purposes of compliance with a plan established under title I of the Clean Air Act for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(B) Subparagraph (A) applies to any person or entity—

"(i) who is the transferee from the Secretary of Defense under this section of any real property or facility located at a military installation approved for closure under this title; and

"(ii) who owns or operates a major stationary source (as used under section 182 of the Clean Air Act (42 U.S.C. 7511a)) at the property or facility.

"(C) The amount of the offsetting air pollutant emission reduction available to a person or entity under subparagraph (A) as the result of the closure of a military installation is the lesser of—

"(i) the amount of the air pollutant that the air quality planning agency for the air quality control region in which the installation is located determines will be emitted by the major stationary source owned or operated by the person or entity at the property or facility; or

"(ii) the amount of the reduction in the emission of the air pollutant for the installation as determined under paragraph (1).

"(4) For purposes of this subsection, the term 'air pollutant' shall include each air pollutant required to be offset under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.) or under applicable State law.".

SEC. 7. SENSE OF CONGRESS ON USE OF SINGLE ENTITY FOR ENVIRONMENTAL REMEDIATION AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should consider carrying out all environmental restoration, waste management, and environmental compliance activities, or any of a related series of such activities, at a military installation approved for closure or realignment under a base closure law through a single entity.

(b) AUTHORITY TO USE SINGLE ENTITY.—Notwithstanding any other provision of law, the Secretary of Defense may carry out all environmental restoration, waste management, and environmental compliance activities, or any of a related series of such activities, at a military installation approved for closure or realignment under a base closure law through a single entity if the Secretary determines that carrying out such activities through such an entity is feasible and appropriate.

(c) DEFINITION.—In this section, the term "base closure law" means the following:

(1) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

SEC. 8. REIMBURSEMENT OF CERTAIN TRANSFEREES OF DEPARTMENT OF DEFENSE FOR BUSINESS LOSS DUE TO ENVIRONMENTAL HAZARDS ON TRANSFERRED PROPERTY.

(a) IN GENERAL.—(1) Except as provided in paragraph (3) and subject to subsection (b), the Secretary of Defense may reimburse in full the persons and entities referred to in paragraph (2) for any economic loss suffered by the persons or entities as a result of the release or threatened release of any hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

(2) The persons and entities referred to in paragraph (1) are the following:

(A) Any person or entity (other than an entity of a State government or political subdivision thereof) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1) for the purposes (as determined by the Secretary of Defense) of carrying out for-profit business activities at the facility.

(B) Any successor, assignee, transferee, or lessee of a person or entity referred to in subparagraph (A) if the Secretary determines that such successor, assignee, transferee, or lessee carries out for-profit business activities at the facility.

(C) Any lender of a person or entity referred to in subparagraph (A) or (B).

(3) Paragraph (1) shall not apply to a person or entity referred to in paragraph (2) to the extent that the person or entity contributed to any release or threatened release referred to in paragraph (1).

(b) CONDITIONS.—No reimbursement may be provided under this section unless the person or entity making a claim for reimbursement—

(1) notifies the Department of Defense in writing within 2 years after the claim accrues;

(2) furnishes to the Department of Defense copies of pertinent documents the person or entity receives;

(3) furnishes evidence or proof of any claim, loss, or damage covered by this section; and

(4) provides, upon request of the Secretary of Defense, access to the records and personnel of the person or entity for purposes of settling the claim.

(c) SCOPE OF AUTHORITY OF SECRETARY OF DEFENSE.—In any case in which the Secretary of Defense determines that a person or entity referred to in paragraph (2) of subsection (a) may be entitled to reimbursement under this section for economic loss suffered by the person or entity as a result of a release or threatened release referred to in paragraph (1) of that subsection, the Secretary may, at the discretion of the Secretary—

(1) pay the person or entity—

(A) an amount equal to the amount of the economic loss (as determined by the Secretary); and

(B) an amount determined by the Secretary to be appropriate in order to permit the person or entity to maintain on-going for-profit business activities at the facility while the Secretary carries out remediation of the release or threatened release; or

(2) purchase the facility from the person or entity at a price jointly agreed upon by the Secretary and the person or entity.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(e) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms in paragraphs (9), (14), (22), and (33) of section 101 the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(9), (14), (22), and (33)), respectively.

(2) The term "base closure law" means the following:

(A) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

SEC. 9. TREATMENT UNDER COMMUNITY REINVESTMENT ACT OF COMMUNITIES AFFECTED BY THE CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking "(2) take such record" and inserting "(3) take the records referred to in paragraphs (1) and (2)"; and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) if the institution serves a community affected by the closure or realignment of a military installation under a base closure law, assess the institution's record of meeting the credit needs of that entire community, consistent with the safe and sound operation of the institution; and"; and

(2) by adding at the end the following new subsection:

"(c) DEFINITION.—For purposes of subsection (a)(2), the term 'base closure law' means the following:

"(1) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).".

THE BASE CLOSURE COMMUNITY REDEVELOPMENT ACT OF 1994—SUMMARY

Section 1: Title of bill—the "Base Closure Community Redevelopment Act of 1994".

Section 2: Exempts closing military bases from the homeless assistance provisions of the McKinney Act; instead, gives homeless assistance providers and other community groups a voice in the local reuse planning process. A local redevelopment authority creates one comprehensive redevelopment plan based on expressions of interest for property by federal agencies, state and local entities, homeless assistance providers and other community groups. The final redevelopment plan, developed on the local level and in consultation with homeless assistance planning boards, would balance the needs of the homeless with economic redevelopment and job creation interests. The local redevelopment plan would be reviewed by the Secretary of HUD to ensure that a reasonable amount of homeless assistance is provided either on or off the base. All closing military bases slated for closure after date of enactment would be covered under this new provision. In addition, those bases that are already slated for closure request consideration under this new provision.

Section 3: Requires the Secretary of Defense to submit yearly, updated reports on the costs of environmental cleanup at closing military bases.

Section 4: Allows for the designation of 20 additional Enterprise Communities (eligible for tax-exempt bond financing) nationwide. In order to be eligible, the additional communities must be in areas affected by base closure or major realignment.

Section 5: Requires the Secretary of Defense to consult with the redevelopment authority over the procedures used for the appraisal of property at closed military bases. If DoD and the redevelopment authority have different estimates of the value of the property, a third party jointly selected by DoD and the redevelopment authority (i.e. an independent appraiser) shall determine the value.

Section 6: Requires the Secretary of Defense, in consultation with local officials, to determine the reduction in emissions resulting from a base closure (following procedures laid forth by the Clean Air Act). If not needed by another military installation in the air quality control region as an offsetting emission reduction, the reduction shall be made available to the entities redeveloping the installation.

Section 7: Allows the Secretary of Defense to use a single entity to carry out all (or any part) of the environmental cleanup at closing military bases. This procedure is also known as "cradle-to-grave" contracting.

Section 8: Directs the Secretary of Defense to indemnify businesses locating at closed military bases for economic losses caused by environmental hazards inadvertently or negligently left behind by DoD.

Section 9: Extends the eligibility for the Federal Community Reinvestment Act credits to private lenders who provide loans to base closure communities. Currently, these credits are only available for low- and moderate-income communities.

SECTION 2: USE OF CLOSING MILITARY BASES FOR ECONOMIC REDEVELOPMENT AND HOMELESS ASSISTANCE

(Developed in consultation with Congressional staff and an interagency working group consisting of representatives from DOD, HUD, HHS, GSA and the Interagency Council on the Homeless).

1. Base Closure and Realignment property shall be exempted from the current provisions of Title V of the McKinney Homeless Assistance Act. Instead, homeless assistance providers, homeless persons and their representatives will have a voice in the reuse planning process for closing military installations. The Local Redevelopment Authority (LRA) will be used to request property on a portion of the base or to request other assistance related to the development of the base. Accordingly, homeless assistance providers will no longer be able to make requests directly to the Federal government for all or part of an entire installation. The redevelopment plan developed by the LRA will be required to be based on local needs as well as balance all community and economic development interests, including those of the homeless.

2. DOD and Federal agencies will screen available properties and participate in the local planning process by submitting an expression of interest and a statement on need to DOD, with a copy to the LRA. (Federal agencies may obtain property either directly from DOD or through the LRA under economic development conveyances.)

3. Following the DOD/Federal agency screening, DOD shall publish in the Federal Register information about excess and available property on a base. DOD shall also publish the name of the LRA and LRA contacts as soon as an LRA is established. The Interagency Council on the Homeless will assist in disseminating this information to organizations serving the homeless. The LRA will be responsible for publicizing its planning and public input process in local publications.

State and local interests, including community-based homeless-related interests, and all other parties shall express their interest and statement of need for base property to the LRA. A submission from a homeless assistance provider to the LRA shall include a statement describing: (1) its proposed homeless assistance program; (2) the need for the program; (3) the linkages of the proposed program to other programs available in the community; (4) the specific properties, facilities or other resources needed to carry out the proposed program; and (6) the amount of time necessary for the proposed program to become operational.

4. All statements of interest from state and local interests, homeless assistance providers and other parties shall be submitted to the LRA within a time frame set by the LRA and made public (but not less than three months and not later than six months after completion of DOD/Federal screening). [For those bases already slated for closure that have already completed the screening process, the time frame shall be not less than one month and not later than six months.]

5. The local Homeless Assistance Planning Board (HAPB) established under (proposed) Section 411(b) of Title IV of the McKinney Act (as provided for in Section 811 of H.R. 3838) (if one exists) is expected to take the lead in coordinating and reviewing requests from homeless providers and making recommendations to the LRA on those requests. If no HAPB exists, a committee with representatives from the local government and broad representation from locally based government and non-government homeless providers may be established to coordinate these efforts.

6. The LRA will have not more than one year from completion of the screening period to complete and submit a redevelopment plan [note: this is not more than 24 months from approval of closure]. DOD may negotiate and enter into interim leases for use of available properties (consistent with the redevelopment plan) prior to permanent transfer or disposal.

7. The LRA will submit a redevelopment plan and application for certification to DOD and HUD. (The plan discussed in this proposal is the "redevelopment plan" defined in Title 29 of the Defense Authorization Act of 1994.)

The LRA's application shall be appropriately documented and include:

(a) A copy of the redevelopment plan.

(b) Copies of all expressions of interest from homeless assistance providers and a discussion of how these and all other requests for property, including those from Federal agencies, state and local interests, etc., are being addressed;

(c) A summary of the LRA's outreach to homeless providers and publicly efforts, as well as a summary of any public comments.

(d) A summary of the LRA's consultations with other organizations in developing the plan (including consultations with local Homeless Assistance Planning Boards and homeless providers who have expressed interest);

(e) A statement from the LRA of how the plan balances the expressed needs of the

homeless (either on- or off-base) and other community and economic development needs; and,

(f) Copies of proposed legally binding and enforceable agreement(s) that the LRA has entered into to fulfill its commitment(s) to homeless assistance providers. The agreement(s) must set forth the LRA's policies and procedures for determining the future use of properties, transfers for homeless assistance resources provided in accordance with the plan, in the event that local needs or circumstances change. In this case, any property which has been transferred for homeless assistance use shall revert to the LRA or its authorized local designee for a use consistent with its legally binding agreement with the homeless provider, and not revert to DoD.

The redevelopment plan shall be site-specific to the extent practicable. (The LRA may submit a more specific plan at a later date if the plan involves a base which is scheduled for closure more than 24 months following DoD's Federal Register announcement). DoD may begin to review the LRA's redevelopment plan and incorporate it into the environmental analysis required for NEPA.

8. HUD will review the entire submission to certify that the plan adequately addresses the needs of the homeless and that it balances those needs with the need for community and economic development. The reuse plan must:

(a) include commitments to enter into legally binding agreements to provide assistance to the homeless within the community, and copies of such agreements;

(b) balance the need for providing property and assistance to the homeless with the overall reuse plan for the military installation;

(c) have been developed in consultation with local representatives of the homeless, including representatives of applicable local homeless assistance planning boards and representatives of local nongovernmental homeless providers;

(d) specify the manner in which property or assistance will be made available for homeless assistance.

In making the determination, HUD will consider the population of the homeless in the community involved, the extent of current services to assist the homeless within the community, the extent of the commitment of resources by local governments in the community to assist the homeless, the need for additional services to assist the homeless within the community, and the suitability of the property for serving the needs of the homeless.

Formal adoption of the redevelopment plan must be made in a public forum and in accordance with applicable state and local laws. In addition, the redevelopment plan submitted should include a summary of comments from community groups and other interested parties as expressed during a public comment period.

9. HUD will have 60 days to complete its review of the plan, certify that the plan either does or does not reasonably address the needs of the homeless (either on- or off-base) and balance those needs with the need for community and economic development, and notify the redevelopment authority. During this period, HUD may work with the LRA to identify inadequacies and may negotiate changes to the plan. DoD will not convey any properties to the LRA unless and until HUD certifies that the LRA's submission is acceptable.

(a) If HUD certifies that the plan balances homeless assistance needs with community and economic needs, HUD will notify DoD and the LRA. DoD will then work with the LRA to fulfill the approved commitments for homeless use.

(b) If HUD determines that the plan fails to reasonably address the needs of the homeless and balance the need for community and economic development, then HUD will state the specific reasons for its conclusions and specify actions needed to make the plan acceptable. HUD's report will be sent both to DoD and the LRA.

10. If the redevelopment plan is not approved by HUD, the LRA, will have 90 days following the receipt of HUD's report to submit a revised plan to HUD and DoD that addresses HUD's concerns. HUD will review the revised plan and either certify that it is either acceptable or unacceptable within 30 days of receipt. If HUD certifies that the revised plan is unacceptable, HUD will, within 90 days, administer the following process:

(a) HUD will review the original expressions of interest from homeless assistance providers for property on the base that were included in the LRA's submission (see paragraph 7(b) above).

(b) HUD will consult with these providers to determine if they are still interested in property on the base for homeless assistance purposes and obtain additional information necessary to prepare leases, deeds or other conveyance documents.

(c) HUD will request that these providers submit a detailed proposal containing information related to its proposed program which is similar to that currently submitted to HHS as part of the current McKinney Title V process (e.g., financial capacity, environmental issues, and compliance with Federal non-discrimination laws). The applicant will also be asked to certify and document the availability of appropriate sewer, water, police and fire services.

(d) HUD will review these proposals and make a recommendation to DoD consistent with its previous report to DoD and the LRA on the redevelopment plan. In making this recommendation, HUD will address the suitability of the identified properties for homeless use in consultation with DoD and in accordance with the current HUD checklist for McKinney properties.

11. If HUD approves the redevelopment plan, DoD will, after reviewing recommendations from the appropriate federal agencies, ordinarily convey properties to an LRA or to other entities approved for public benefit uses under the Federal Property Act. DoD may, when necessary, transfer properties directly to providers identified by the LRA (or approved by HUD if HUD finds the LRA's plan unacceptable) to meet the needs of the homeless.

12. In those limited cases in which DoD conveys property directly to homeless providers, HUD will work with DoD and the providers in preparing the necessary deed.

13. DoD, in consultation with the LRA, may extend any of the time lines mentioned above if doing so is in public interest.

14. The new process identified above shall apply to any installation approved for closure after the date of enactment.

15. In the case of property on an installation already approved for closure, the LRA may, within 60 days of enactment of this proposal, submit a request to DoD for consideration under the new procedures instead of the current McKinney Title V process.

If a homeless assistance provider has a pending McKinney Act application but not yet approved, that homeless assistance provider shall be given preferential status by the LRA when determining homeless needs in the redevelopment plan. If a McKinney Act application has already been approved by HHS but property has not yet been transferred, the LRA must demonstrate in the redevelopment plan how it will accommodate, at a minimum, the approved program(s) and activities on or off the base in a substantially equivalent manner.

16. For those 60 calendar days immediately following enactment of this proposal, HHS will suspend processing of all expressions of interest and applications for base closure properties under the current McKinney process which have been published by HUD but not approved. At the end of this 60 days period, HHS will resume processing applications in accordance with applicable law and regulations.

17. In the event a request is filed in connection with the process described in paragraphs 13 or 14 above, HHS and HUD will suspended the McKinney application process for the applicable properties. DoD will notify HHS and HUD (who will notify any affected homeless providers) that a LRA wishes to proceed under this new section.

18. The LRA will be responsible for monitoring the implementation of the redevelopment plan.•

By Mr. SARBANES (for himself and Mr. BRYAN):

S.J. Res. 228. A joint resolution designating October 29, 1994, as "National Firefighters Day"; to the Committee on the Judiciary.

NATIONAL FIREFIGHTERS DAY

• Mr. SARBANES. Mr. President, today I am introducing a Joint Resolution to designate October 29, 1994 as "National Firefighters Day."

As a co-chairman of the Congressional Fire Services Caucus and a longtime supporter of our Nation's fire service, I am honored to again sponsor a resolution that sets aside 1 day to thank firefighters for their dedication and service to all of us. As my colleagues will recall, we previously designated October 29, 1993, as "National Firefighters Day" and it is my hope that we can make this an annual tradition.

Twenty-four hours a day, 365 days each year, firefighters are on standby—ready to come to our aid. These well-trained men and women are our first line of defense against fire and a host of other natural disasters. And while each of us hopes that we will never need their assistance, we take comfort in knowing that they are there.

At a time when so many bemoan the lack of role models for our youth, I contend that we need look only to the nearest firehall for heroes who day-to-day put their lives on the line in selfless service to others. Mr. President, all of the volunteer and career firefighters around our country truly deserve a day of recognition.

An identical resolution was introduced in the House last week by the distinguished chairman of the Congressional Fire Services Caucus, Representative HOYER from Maryland. I am

pleased to be joined today by one of my fellow Senate co-chairmen, Senator BRYAN, in introducing the Senate companion. Mr. President, I urge all of my colleagues to join us in sponsoring this joint resolution.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 228

Whereas there are over 2,000,000 firefighters in the United States;

Whereas firefighters respond to more than 2,300,000 fires and 8,700,000 emergencies other than fires each year;

Whereas fires annually cause nearly 6,000 deaths and $10,000,000,000 in property damages;

Whereas firefighters have given their lives and risked injury to preserve the lives and protect the property of others;

Whereas the contributions and sacrifices of valiant firefighters often go unreported and are inadequately recognized by the public; and

Whereas the work of firefighters deserves the attention and gratitude of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1994, is designated as "National Firefighters Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 571

At the request of Mr. ROTH, his name was added as a cosponsor of S. 571, a bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals.

S. 916

At the request of Mr. CRAIG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 916, a bill to amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, and for other purposes.

S. 1288

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1598

At the request of Mr. ROTH, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1598, a bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

S. 1727

At the request of Mr. COHEN, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1727, a bill to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage.

S. 1976

At the request of Mr. DOMENICI, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 2140

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2140, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 2257

At the request of Mr. BAUCUS, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

S. 2378

At the request of Mr. DOLE, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Virginia [Mr. ROBB], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 2378, a bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance.

S. 2412

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2412, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes.

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

SENATE JOINT RESOLUTION 208

At the request of Mr. WOFFORD, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. ROBB], the Senator from Washington [Mr. GORTON], the Senator from California [Mrs. FEINSTEIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BURNS], the Senator from Florida [Mr. MACK], the Senator from Missouri [Mr. DANFORTH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Maine [Mr. COHEN], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Joint Resolution 208, a joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week."

SENATE JOINT RESOLUTION 218

At the request of Mr. WARNER, the names of the Senator from Missouri [Mr. BOND], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 218, a joint resolution designating January 16, 1995, as "Religious Freedom Day."

SENATE JOINT RESOLUTION 220

At the request of Mr. BIDEN, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from New Hampshire [Mr. GREGG], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 220, a joint resolution to designate October 19, 1994, as "National Mammography Day."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Rhode Island [Mr. PELL], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE RESOLUTION 264

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of Senate Resolution 264, a resolution expressing the sense of the Senate that the President should issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education and foster the advancement of the National Education Goals for Indians.

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts [Mr. KERRY] was withdrawn as a cosponsor of Senate Resolution 264, supra.

AMENDMENT NO. 2595

At the request of Mr. WOFFORD the names of the Senator from Iowa [Mr. HARKIN] and the Senator from West

Virginia [Mr. ROCKEFELLER] were added as cosponsors of Amendment No. 2595 proposed to H.R. 4649, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

SENATE CONCURRENT RESOLUTION 75—RELATING TO THE COMMONWEALTH OPTION IN PUERTO RICO

Mr. SIMON submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 75

Whereas the Government of the Commonwealth of Puerto Rico enacted legislation to allow the people of Puerto Rico to express, through a plebiscite, their preference regarding the nature of the future relationship between Puerto Rico and the United States;

Whereas the plebiscite ballot contained the status options of statehood, commonwealth, and independence, as defined by the three principal political parties of Puerto Rico;

Whereas, in the plebiscite of November 14, 1993, 48.6 percent of the people of Puerto Rico voted for commonwealth status, 46.3 percent voted for statehood status, and 4.4 percent voted for independence;

Whereas the commonwealth status option presented to the Puerto Rico electorate on November 14, 1993, proposed significant changes to the current relationship between Puerto Rico and the United States, including—

(1) the execution of a bilateral pact between Puerto Rico and the United States that would be unalterable, except by mutual consent;

(2) permanent union between Puerto Rico and the United States;

(3) the extension of supplemental security income (SSI) under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) to citizens of Puerto Rico; and

(4) equality between Puerto Rico and the States regarding food stamp allocations under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

Whereas the commonwealth status option presented to the Puerto Rico electorate on November 14, 1993, stated that commonwealth status would guarantee—

(1) irrevocable United States citizenship;

(2) Puerto Rico fiscal autonomy; and

(3) a common market, common currency, and common defense with the United States;

Whereas the legislature of Puerto Rico passed a concurrent resolution asking that the Congress make a statement concerning the viability of the commonwealth ballot formula presented to the people of Puerto Rico in the plebiscite of November 14, 1993;

Whereas the Congress holds great respect for Puerto Ricans as citizens of the United States; and

Whereas it is incumbent upon the Congress to express the sense of the Congress concerning the viability of the elements of the commonwealth formula proposed in the November 14, 1993, plebiscite: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the changes to the political relationship between Puerto Rico and the United States that are described in the option of the Puerto Rico plebiscite of November 14, 1993, known as the commonwealth option would provide to United States citizens who are residents of Puerto Rico the Federal benefits of United States citizens living in the States without the concomitant responsibilities;

(2) the commonwealth formula presented in the Puerto Rican plebiscite of November 14, 1993, is not an economically or politically viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico; and

(3) the unalterable bilateral pact that such commonwealth formula proposes as the vehicle for the permanent union of Puerto Rico with the United States is not a constitutionally viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico.

• Mr. SIMON. Mr. President, on July 4, 1994, the legislative assembly enacted a concurrent resolution asking the U.S. Congress to address the viability of the commonwealth option voted on by the people of Puerto Rico during the November 14, 1993, plebiscite. I am pleased to join my friend Congressman DON YOUNG of Alaska in a bipartisan, bicameral effort to respond to the request of the Puerto Rican legislature. Along with Congressman YOUNG, I am submitting a concurrent resolution of the U.S. Congress regarding the commonwealth option presented in November 14, 1994 plebiscite.

The need for such a concurrent resolution must be considered in the context of the procedures governing the Puerto Rican plebiscite. In the interests of comity, the Legislative Assembly of Puerto Rico permitted each of the three political parties represented in the plebiscite—the Statehood Party, the Commonwealth Party, and the Independence Party—to draw up its own definition of its status option for inclusion on the plebiscite ballot. This attempt to be fair, however, led to the formulation and appearance of completely unrealistic status options on the November 14 ballot.

The Commonwealth Party in Puerto Rico presented Puerto Rico's citizens with a series of vain promises regarding the island's future relationship with the United States. The Commonwealth Party promised, among other things, that future Puerto Rico-U.S. relations would be governed by a bilateral pact that would be unalterable except by mutual consent; that supplemental security income benefits and food stamps would be made available to Puerto Ricans on a par with citizens of the 50 states; that Puerto Rican fiscal autonomy would be preserved; and that Puerto Rico would be guaranteed a common market, defense, and currency with the United States. In short, the Commonwealth Party promised Puerto Ricans many of the benefits of full incorporation with the United States without any of the concomitant responsibilities, and proposed a form of association with the United States that is inconsistent with Constitutional principles.

Not surprisingly, a plurality of Puerto Ricans—48.6 percent—voted for the Commonwealth package of benefits, although to the credit of the Puerto Rican people, a combined majority of pro-statehood and pro-independence voters expressed approval for packages that combined benefits and responsibilities equally. Indeed, it is important to note that, for the first time since its establishment in 1952, the commonwealth status option failed to receive a majority of support from the Puerto Rican electorate.

In light of the continued uncertainty regarding the Puerto Rican plebiscite and what it means for the future, it is incumbent on the U.S. Congress to heed the call of the Puerto Rican Legislature and express its opinion regarding the viability of the commonwealth plebiscite formula. If, as I believe, this formula was neither politically, economically, nor constitutionally viable, the people of Puerto Rico must be given this signal, so that they may promptly choose a path of association that is both realistic and consistent with constitutional principles.

While it is unfortunate that the voters of Puerto Rico faced inflated and unrealistic expectations in the November 14, 1993 plebiscite, the Congress of the United States can now set the record straight, so that Puerto Rico may continue without undue delay to find a viable constitutional option to its current self-governing, unincorporated territorial status.•

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1995

METZENBAUM (AND HATCH) AMENDMENT NO. 2601

Mr. METZENBAUM (for himself and Mr. HATCH) proposed an amendment to the House amendment to the Senate amendment No. 12 to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes; as follows:

At the end of the amendment add:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baseball Fans Protection Act of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to encourage serious negotiations between the major league baseball players and the owners of major league baseball;

(2) to prevent continued economic loss to individuals not involved in the negotiations whose livelihoods depend on baseball's being played;

(3) to prevent continued losses to communities that host major league baseball; and

(4) to preserve the remainder of the 1994 regular season, the 1994 playoffs and World Series, and the 1995 spring training season for the fans of baseball.

SEC. 3. APPLICATIONS OF THE ANTITRUST LAWS TO MAJOR LEAGUE BASEBALL IN EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) IN GENERAL.—In the event that a unilateral term or condition is imposed by any party that has been subject to an agreement between the owners of major league baseball and the labor organization representing the players of major league baseball, the antitrust laws shall apply to that term or condition, and that term or condition may be challenged by any party to such agreement in any United States district court in a district in which one of the parties is doing business.

"(b) STAY OF CERTAIN TERMS AND CONDITIONS.—If, prior to the mutual adoption of agreements between the owners of major league baseball and the labor organization representing the players of major league baseball that replaces the agreements between the parties that expired on or after December 31, 1993, unilateral terms and conditions are imposed by any party to the prior agreement, and those terms and conditions are challenged in a court action in accordance with the provisions of subsection (a), the application of such unilaterally imposed terms and conditions shall be stayed until any such action is final, including any appellate review thereof, and the parties shall be bound by the terms and conditions of the agreements between the parties in effect on December 30, 1993 until such stay has expired.

"(c) DEFINITION.—In this section, 'term or condition' does not include a strike or a lockout.".

DURENBERGER (AND OTHERS) AMENDMENT NO. 2602

Mr. DURENBERGER (for himself, Mr. CONRAD, Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BOND, Mr. HEFLIN, Mrs. HUTCHISON, Mr. DANFORTH, Mr. DECONCINI, Mr. KOHL, Mr. DORGAN, and Mr. ROCKEFELLER) proposed an amendment to the House amendment to Senate amendment No. 12 to the bill H.R. 4649, supra; as follows:

SEC. . MEDICARE SELECT.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "3-year period".

AUBURN INDIAN RESTORATION ACT

INOUYE AMENDMENT NO. 2603

Mr. COATS (for Mr. INOUYE) proposed an amendment to the bill (H.R. 4228) to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California; as follows:

On page 9, between lines 9 and 10, insert the following:

TITLE I—AUBURN INDIAN RESTORATION

On page 9, line 10, strike "SECTION 1" and insert "SEC. 101".

On page 9, lines 11 and 20, strike "Act" each place it appears and insert "title".

On page 9, line 13, strike "2" and insert "102".

On page 10, lines 16 and 24, strike "Act" each place it appears and insert "title".

On page 11, line 3, strike "3" and insert "103".

On page 11, line 11, strike "7" and insert "107".

On page 11, lines 19 and 20, strike "4" each place it appears and insert "104".

On page 12, line 23, strike "5" and insert "105".

On page 13, lines 4 and 24, strike "7" each place it appears and insert "107".

On page 14, line 14, strike "6" and insert "106".

On page 14, line 16, strike "7" and insert "107".

On page 15, line 1, strike "5(b)" and insert "105(b)".

On page 15, line 4, strike "7" and insert "107".

On page 15, line 6, strike "5(a)" and insert "105(a)".

On page 15, line 22, strike "8" and insert "108".

On page 15, line 23, strike "Act" and insert "title".

On page 16, line 7, strike "6" and insert "106".

On page 16, line 9, strike "5(b)" and insert "105(b)".

On page 16, line 14, strike "4" and insert "104".

On page 16, line 18, strike "9" and insert "109".

On page 16, after line 20, add the following new title:

TITLE II—CHOCTAW INDIANS RECOGNITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

SEC. 202. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

SEC. 203. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) CONGRESSIONAL APPROVAL.—(1) Congress finds that under the treaties entered into by the ancestors of the Mowa Band of the Choctaw Indians all historical tribal lands were ceded to the United States.

(2) Congress hereby approve and ratifies such cession effective as of the date of the such cession and such cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaw Indians, if any, in such lands as of the date of the cession.

(3) By virtue of the approval and ratification of the cession of such lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaw Indians, including claims for trespass damages or claims for use and occupancy, arising subsequent to the cession that are based upon any interest in or right involving such land, shall be considered as extinguished as of the date of the cession.

(c) CLAIMS.—(1) The Mowa Band of Choctaw Indians may not be considered to have a historical land claim.

(2) The Mowa Band of Chowtaw Indians may not use the Federal recognition provided to the Mowa Band of Choctaw Indians under this Act to assert any historical land claim.

(3) As used in this subsection the term "historical land claim" means a claim to land based upon—

(A) a contention that the Mowa Band of Choctaw Indians, or its ancestors, were the native inhabitants of such land;

(B) the status of Mowa Band of Choctaw Indians as native Americans; or

(C) the Federal recognition of the Mowa Band of Choctaw Indians, as provided by this title.

(d) STATUTORY CONSTRUCTION.—Except as otherwise specifically provided in section 204 or any other provision of this title, nothing in this title may be construed as altering or affecting—

(1) any rights or obligations with respect to property;

(2) any rights or obligations under any contract; or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 204. LANDS.

(a) IN GENERAL.—All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States to be held in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b) INTERESTS.—(1)(A) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act.

(B) Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) RESERVATION.—Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of the Mowa Band of Choctaw Indians of Alabama.

(d) FINDINGS.—Congress finds that the provisions of this section—

(1) are enacted at the request of the Mowa Band of Choctaw Indians of Alabama; and

(2) are in the best interest of such Band.

SEC. 205. SERVICES.

The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of the residence of any member of the Band on or near any Indian reservation.

SEC. 206. CONSTITUTION AND BYLAWS.

(a) IN GENERAL.—The Mowa Band of Choctaw Indians of Alabama may organize for the

common welfare of the Band and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) FILING.—Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior. SEC. 207. MEMBERSHIP.

(a) IN GENERAL.—Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of each individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) AFTER THE ADOPTION OF A CONSTITUTION.—After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such constitution or any bylaws adopted under such constitution.

SEC. 208. REGULATIONS.

The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this title.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS OF 1994

JOHNSTON (AND WALLOP) AMENDMENT NO. 2604

Mr. LEVIN (for Mr. JOHNSTON, for himself and Mr. WALLOP) proposed an amendment to the bill (S. 2251) to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively, and for other purposes; as follows:

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendment of 1994.

SEC. 102. TABLE OF CONTENTS AMENDMENTS.

Amend the table of contents of the Energy Policy and Conservation Act by,

(1) striking the items relating to section 153, 155, 158, 164, and 173:

(2) amending the item relating to section 159 to read as follows:

"Sec. 159. Development, operations, and maintenance of the Reserve."; and

(3) striking the items relating to part A of title II.

SEC. 103. AMENDMENTS TO STATEMENT OF PURPOSES.

Section 2 of the Energy Policy and Conservation Act is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, and to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and";

(2) by amending paragraph (3) to read as follows:

"(3) to increase the domestic supply of fossil energy during severe energy supply interruption."; and

(3) by amending paragraph (6) to read as follows:

"(6) to reduce the demand for petroleum products during severe energy supply interruptions"

SEC. 102. TITLE I AMENDMENTS.

(a) Part B of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6231) is amended—

(1) in section 151 (42 U.S.C. 6231)—

(A) in subsection (a) by striking "limited" and "short term"; and

(B) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.";

(2) in section 152 (42 U.S.C. 6232)—

(A) by striking paragraph (1), and

(B) in paragraph (11) by striking ", the Early Storage Reserve",

(3) by striking section 153 (42 U.S.C. 6233);

(4) in section 154 (42 U.S.C. 6234)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) A Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products shall be created pursuant to this part";

(B) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.";

(C) by striking subsection (c) and (d); and

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall prepare, and update biennially, a plan for the operation, maintenance and proposed expansion of the Reserve (hereinafter referred to as the SPR Plan). The SPR Plan shall include—

"(A) a description of the facilities that compose the Strategic Petroleum Reserve, including the type and location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve);

"(B) an estimate of the volumes and types of petroleum products stored in each storage facility, including any special characteristics of such petroleum products; and

"(C) an identification of the ownership of the petroleum products stored in the Reserve in any case where such products are not owned by the United States; and

"(D) a description of any changes that have occurred, or are anticipated, in the operation and maintenance of the Reserve, including any plans under consideration or proposed for the upgrading or replacement of existing facilities or the construction of new storage facilities.

"(2) The Secretary shall, by rule, also prepare a Strategic Petroleum Reserve Drawdown and Distribution Plan (hereinafter referred to as the SPR Drawdown Plan). The SPR Drawdown Plan shall set forth policy options applicable to the drawdown and distribution of the Reserve, including the strategy or alternative strategies of drawdown and distribution that will be considered and the criteria that will be employed to select among such strategies. Until such SPR Drawdown Plan is finalized the December 1, 1992 Strategic Petroleum Reserve Drawdown (Amendment Number 4) shall remain in force and effect.".

(5) by striking section 155 (42 U.S.C. 6235);

(6) in section 156(b) (42 U.S.C. 6236(b)) by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The";

(7) by amending section 157 (42 U.S.C. 6237)—

(A) in subsection (a), by striking "The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of" and insert "the Secretary shall establish and maintain as part of the Strategic Petroleum Reserve", and

(B) in subsection (b), by striking "To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain" and inserting "The Secretary may establish and maintain as part of the Strategic Petroleum Reserve";

(8) by striking section 158 (42 U.S.C. 6238);

(9) in section 159 (42 U.S.C. 6239)—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

"(1) issue rules, regulation, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve; and

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land";

(C) in subsection (g)—

(i) by striking "implementation" and inserting "development"; and

(ii) by striking "Plan";

(D) by striking subsections (h) and (i); and

(E) by striking in subsection (j) from "No later than" through "Amendments of 1990" and inserting in lieu thereof: "When the Secretary determines that, within five years, the Reserve can reasonably be expected to contain an inventory of 750,000,000 barrels,"; and

(F) by amending subsection (l) to read as follows:

(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(10) in section 160 (42 U.S.C. 6240)—

(A) in subsection (a), by striking all before the dash and inserting the following—

"(a) For the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange";

(B) in subsection (b), by striking the third comma and "including the Early Storage Reserve" and paragraph (2).

(C) by striking subsections (c), (d) and (e);

(11) in section 161 (42 U.S.C. 6241)—

(A) by amending subsection (b) to read as follows:

"(b) Except as provided in subsections (f) and (g), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan prepared pursuant to section 154(e)."

(B) by striking subsection (c);

(C) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.";

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this section."; and

(E) in subsection (g)—

(i) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures", and

(ii) by striking paragraphs (2) and (6);

(12) by striking section 164 (42 U.S.C. 6244);

(13) by amending section 165 (42 U.S.C. 6245) to read as follows—

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity;

"(B) The types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any condition affecting physical integrity of any Reserve facility or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a Reserve a 750 million barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of one billion barrels; and

"(G) a description of the current method of drawdown and distribution to be utilized, and

"(H) an explanation of any changes made in the mattes described in subparagraphs (A) through (G) since the transmittal of the previous report under this section;

"(2) a summary of the actions being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) A review of any proposal received from a person, including a State of local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum reserve and SPR Petroleum Account;

"(7) a summary of existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part, including any proposal under paragraphs (3) and (4)."

(14) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "such funds as may be necessary to implement this part.";

(15) in section 167 (42 U.S.C. 6247)—

(A) in subsection (b)

(i) by inserting "test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,";

(ii) by striking paragraph (1);

(iii) in paragraph (2), by striking "after fiscal year 1982"; and

(B) by amending subsection (e) to read as follows:

"(e) The Impoundment Control Act of 1974 (2 U.S.C. 681–688) applies to funds made available under subsection (b).";

(c) Part C of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6249, et seq.) is amended—

(1) in section 172 (42 U.S.C. 6249a) by striking subsections (a) and (b); and

(2) by striking section 173 (42 U.S.C. 6249b); and

(d) Part D of Title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "1994" each time it appears and inserting "1999".

SEC. 103. TITLE II AMENDMENTS.

(a) Title II of the Energy Policy and Conservation Act is amended by striking Part A (42 U.S.C. 201 through 204).

(b) Part B of Title II of the Energy Policy and Conservation Act is amended by adding at the end of section 2156(h), "There are authorized to be appropriated for fiscal years 1996 through 1999, such sums as may be necessary.".

(c) Part D of Title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "1994" each time it appears and inserting "1999".

SEC. 104. TITLE III AMENDMENTS.

(a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended in section 365(f) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary."

(b) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et. seq.) is amended in section 397 (42 U.S.C. 6371f) is amended to read as follows:

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

JOHNSTON AMENDMENT NO. 2605

Mr. LEVIN (for Mr. JOHNSTON) proposed an amendment to the bill S. 2251, supra; as follows:

On page —, after SEC. 402(c)(2) add the following title:

TITLE V—DEPARTMENT OF ENERGY TECHNOLOGY PARTNERSHIPS

SECTION 501. SHORT TITLE.

This title may be cited as the "Department of Energy National Competitiveness Technology Partnership Act of 1994".

SEC. 502. DEFINITIONS.

For purposed of this title, the term—

(a) "Department" means the United States Department of Energy; and

(b) "Secretary" means the Secretary of the United States Department of Energy.

SEC. 503. COMPETITIVENESS AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

(a) The Department of Energy Organization Act is amended by adding the following new title (42 U.S.C. 7101 et seq.):

TITLE XI—TECHNOLOGY PARTNERSHIPS

SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.

(a) FINDINGS.—For purposes of this title, Congress finds that—

(1) the Department has scientific and technical resources within the departmental laboratories in many areas of importance to the economic, scientific and technological competitiveness of United States industry;

(2) the extensive scientific and technical investment in people, facilities and equipment in the departmental laboratories can contribute to the achievement of national technology goals in areas such as the environment, health, space, and transportation;

(3) the Department has pursued aggressively the transfer of technology from departmental laboratories to the private sector; however, the capabilities of the laboratories could be made more fully accessible to United States industry and to other Federal agencies;

(4) technology development has been increasingly driven by the commercial marketplace, and the private sector has research and development capabilities in a broad range of generic technologies;

(5) the Department and the departmental laboratories would benefit, in carrying out

their missions, from collaboration and partnership with United States industry and other Federal agencies; and

(6) partnerships between the departmental laboratories and United States industry can provide significant benefits to the Nation as a whole, including creation of jobs for United States workers and improvement of the competitive position of the United States in key sectors of the economy such as aerospace, automotive, chemical and electronics.

(b) PURPOSES.—The purposes of this title are—

(1) to promote partnerships among the Department, the departmental laboratories and the private sector;

(2) to establish a goal for the amount of departmental laboratory resources to be committed to partnerships;

(3) to ensure that the Department and the departmental laboratories play an appropriate role, consistent with the core competencies of the laboratories, in implementing the President's critical technology strategies;

(4) to provide additional authority to the Secretary to enter into partnerships with the private sector to carry out research, development, demonstration and commercial application activities;

(5) to streamline the approval process for cooperative research and development agreements proposed by the departmental laboratories; and

(6) to facilitate greater cooperation between the Department and other federal agencies as part of an integrated national effort to improve United States competitiveness.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "cooperative research and development agreement" has the meaning given that term in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1));

(2) "core competency" means an area in which the Secretary determines a departmental laboratory has developed expertise and demonstrated capabilities;

(3) "critical technology" means a technology identified in the Report of the National Critical Technologies Panel;

(4) "departmental laboratory" means a facility operated by or on behalf of the Department that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) or any other laboratory or facility designated by the Secretary;

(5) "disadvantaged" has the same meaning as that term has in section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6));

(6) "dual-use technology" means a technology that has military and commercial applications;

(7) "educational institution" means a college, university, or elementary or secondary school, including any not-for-profit organization dedicated to education that would be exempt under section 501(a) of the Internal Revenue Code of 1986;

(8) "minority college or university" means a historically Black college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)).

(9) "multi-program departmental laboratory" means any of the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories;

(10) "partnership" means any arrangement under which the Secretary or one or more departmental laboratories undertakes research, development, demonstration, commercial application or technical assistance activities in cooperation with one or more non-Federal partners and which may include partners from other Federal agencies;

(11) "Report of the National Critical Technologies Panel" means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

(12) "small business" means a business concern that meets the applicable standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 1102. GENERAL AUTHORITY.

(a)(1) In carrying out the missions of the Department, the Secretary and the departmental laboratories may conduct research, development, demonstration or commercial application activities that build on the core competencies of the departmental laboratories.

(2) In addition to missions established pursuant to other laws, the Secretary may assign to departmental laboratories any of the following missions:

(A) National security, including the—

(i) advancement of the military application of atomic energy;

(ii) support of the production of atomic weapons, or atomic weapons parts, including special nuclear materials;

(iii) support of naval nuclear propulsion programs;

(iv) support for the dismantlement of atomic weapons and the safe storage, transportation and disposal of special nuclear materials;

(v) development of technologies and techniques for the safe storage, processing, treatment, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs and of technologies and techniques for the reduction of environmental hazards and contamination due to such waste and the environmental restoration of sites affected by such waste;

(vi) development of technologies and techniques needed for the effective negotiation and verification of international arms control agreements and for the containment of the proliferation of nuclear, chemical, and biological weapons and delivery vehicles of such weapons; and

(vii) protection of health and promotion of safety in carrying out other national security missions.

(B) Energy-related science and technology, including the—

(i) enhancement of the nation's understanding of all forms of energy production and use;

(ii) support of basic and applied research on the fundamental nature of matter and energy, including construction and operation of unique scientific instruments;

(iii) development of energy resources, including solar, geothermal, fossil, and nuclear energy resources, and related fuel cycles;

(iv) pursuit of a comprehensive program of research and development on the environmental effects of energy technologies and programs;

(v) development of technologies and processes to reduce the generation of waste or pollution or the consumption of energy or materials;

(vi) development of technologies and techniques for the safe storage, processing, treatment, management, transportation and disposal of nuclear waste resulting from commercial nuclear activities; and

(vii) improvement of the quality of education in science, mathematics, and engineering.

(C) Technology transfer.

(3)(A) In addition to the missions identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

(i) support the technology policies of the President;

(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties.

(B) These supporting missions shall include activities in the following areas:

(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to U.S. technological and economic competitiveness;

(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

(C) to contribute to the education and training of scientists and engineers;

(D) to provide university and private researchers access to departmental laboratory facilities; or

(E) to provide technical expertise to universities, industry or other Federal agencies.".

(b) The Secretary, in carrying out partnerships, may enter into agreements using instruments authorized under applicable laws, including but not limited to contracts, cooperative research and development agreements, work for other agreements, user-facility agreements, cooperative agreements,

grants, personnel exchange agreements and patent and software licenses with any person, any agency or instrumentality of the United States, any State or local governmental entity, any educational institution, and any other entity, private sector or otherwise.

(c) The Secretary, and the directors of the departmental laboratories, shall utilize partnerships with United States industry, to the maximum extent practicable, to ensure that technologies developed in pursuit of the Department's missions are applied and commercialized in a timely manner.

(d) The Secretary shall work with other federal agencies to carry out research, development, demonstration or commercial application activities where the core competencies of the departmental laboratories could conribute to the missions of such other agencies.

SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS BETWEEN DEPARTMENTAL LABORATORIES AND UNITED STATES INDUSTRY.

(a) Beginning in fiscal year 1994, the Secretary shall establish a goal to allocate to cost-shared partnerships with United States industry not less than 20 percent of the annual funds provided by the Secretary to each multi-program departmental laboratory for research, development, demonstration and commercial application activities.

(b) Beginning in fiscal year 1994, the Secretary shall establish an appropriate goal for the amount of resources to be committed to cost-shared partnerships with United States industry at other departmental laboratories.

SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOPMENT OF CRITICAL TECHNOLOGY STRATEGIES.

(a) The Secretary shall develop a multiyear critical technology strategy for research, development, demonstration and commercial application activities supported by the Department for the critical technologies listed in the Report of the National Critical Technologies Panel.

(b) In developing such strategy, the Secretary shall—

(1) identify the core competencies of each departmental laboratory;

(2) develop goals and objectives for the appropriate role of the Department in each of the critical technologies listed in the report, taking into consideration the core competencies of the departmental laboratories;

(3) consult with appropriate representatives of United States industry, including members of industry associations and representatives of labor organizations; and

(4) participate in the executive branch process to develop critical technology strategies.

SEC. 1105. PARTNERSHIP PREFERENCES.

(a) The Secretary shall ensure that the principal economic benefits of any partnership accrue to the United States economy.

(b) Any partnership that would be given preference under section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. §3710a (c)(4)) if it were a cooperative research and development agreement shall be given preference under this title.

(c) The Secretary shall issue guidelines, after consultation with the Laboratory Partnership Advisory Board established in section 1109, for application of section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a (c)(4)) and application of subsection (a) of this section to partnerships.

(d) The Secretary shall encourage partnerships that involve minority colleges or universities or private sector entities owned or controlled by disadvantaged individuals.

SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.

(a) The Secretary, in consultation with the Laboratory Partnership Advisory Board established in section 1109, shall develop mechanisms for independent evaluation of the ongoing partnership activities of the Department and the departmental laboratories.

(b)(1) The Secretary and the director of each departmental laboratory shall develop mechanisms for assessing the progress of each partnership.

"(2) The Secretary and the director of each departmental laboratory shall utilize the mechanisms developed under paragraph (1) to evaluate the accomplishments of each ongoing multi-year partnership and shall condition continued federal participation in each partnership on demonstrated progress.

SEC. 1107. ANNUAL REPORT.

(a) The Secretary shall submit an annual report to Congress describing the ongoing partnership activities of the Secretary and each departmental laboratory and, to the extent practicable, the activities planned by the Secretary and by each departmental laboratory for the coming fiscal year. In developing the report, the Secretary shall seek the advice of the Laboratory Partnership Advisory Board established in section 1109.

(b) The Secretary shall submit the report under subsection (a) to the Committees on Appropriations and Energy and Natural Resources of the Senate and to the appropriate Committees of the House of Representatives. No later than March 1, 1994, and no later than the first of March of each subsequent year, the Secretary shall submit the report under subsection (a) that covers the fiscal year beginning on the first of October of such year.

(c) Each director of a departmental laboratory shall provide annually to the Secretary a report on ongoing partnership activities and a plan and such other information as the Secretary may reasonably require describing the partnership activities the director plans to carry out in the coming fiscal year. The director shall provide such report and plan in a timely manner as prescribed by the Secretary to permit preparation of the report under subsection (a).

(d) The Secretary's description of planned activities under subsection (a) shall include, to the extent such information is available, appropriate information on—

(1) the total funds to be allocated to partnership activities by the Secretary and by the director of each departmental laboratory;

(2) a breakdown of funds to be allocated by the Secretary and by the director of each departmental laboratory for partnership activities by areas of technology;

(3) any plans for additional funds not described in paragraph (2) to be set aside for partnerships during the coming fiscal year;

(4) any partnership that involves a federal contribution in excess of $500,000 the Secretary or the director of each departmental laboratory expects to enter into in the coming fiscal year;

(5) the technologies that will be advanced by each partnership that involves a federal contribution in excess of $500,000;

(6) the types of entities that will be eligible for participation in partnerships;

(7) the nature of the partnership arrangements, including the anticipated level of financial and in-kind contribution from participants and any repayment terms;

(8) the extent of use of competitive procedures in selecting partnerships; and

(9) such other information that the Secretary finds relevant to the determination of the appropriate level of Federal support for such partnerships.

(e) The Secretary shall provide appropriate notice in advance to Congress of any partnership, which has not been described previously in the report required by subsection (a), that involves a federal contribution in excess of $500,000.

SEC. 1108. PARTNERSHIP PAYMENTS.

(a)(1) Partnership agreements entered into by the Secretary may require a person or other entity to make payments to the Department, or any other Federal agency, as a condition for receiving support under the agreement.

(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary, to the account established under paragraph (3). Amounts so credited shall be available, subject to appropriations, for partnerships.

(3) There is hereby established in the United States Treasury an account to be known as the "Department of Energy Partnership Fund". Funds in such account shall be available to the Secretary for the support of partnerships.

(b) The Secretary may advance funds under any partnership without regard to section 3324 of title 31 of the United States Code to—

(1) small businesses;

(2) not-for-profit organizations that would be exempt under section 501(a) of the Internal Revenue Code of 1986; or

(3) State or local governmental entities.

SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD AND INDUSTRIAL ADVISORY GROUPS AT MULTI-PROGRAM DEPARTMENTAL LABORATORIES.

(a)(1) The Secretary shall establish within the Department an advisory board to be known as the "Laboratory Partnership Advisory Board," to provide the Secretary with advice on the implementation of this title.

(2) The membership of the Laboratory Partnership Advisory Board shall consist of persons who are qualified to provide the Secretary with advice on the implementation of this title. Members of the Board shall include representatives primarily from United States industry but shall also include representatives from the following:

(A) small businesses;

(B) private sector entities owned or controlled by disadvantaged persons;

(C) educational institutions, including representatives from minority colleges or universities;

(D) laboratories of other federal agencies; and

(E) professional and technical societies in the United States.

"(3) The Laboratory Partnership Advisory Board shall request comment and suggestions from departmental laboratories to assist the Board in providing advice to the Secretary on the implementation of this title.

"(b) The director of each multi-program departmental laboratory shall establish an advisory group consisting of persons from United States industry to—

"(1) evaluate new initiatives proposed by the departmental laboratory;

"(2) identify opportunities for partnerships with United States industry; and

"(3) evaluate ongoing programs at the departmental laboratory from the perspective of United States industry.

"(c) Nothing in this section is intended to preclude the Secretary or the director of a

departmental laboratory from utilizing existing advisory boards to achieve the purposes of this section.

"SEC. 1110. FELLOWSHIP PROGRAM.

"The Secretary shall encourage scientists, engineers and technical staff from departmental laboratories to serve as visiting fellows in research and manufacturing facilities of industrial organizations, State and local governments, and educational institutions in the United States and foreign countries. The Secretary may establish a formal fellowship program for this purpose or may authorize such activities on a case-by-case basis. The Secretary shall also encourage scientists and engineers from United States industry to serve as visiting scientists and engineers in the departmental laboratories.

"SECTION 1111. COOPERATION WITH STATE AND LOCAL PROGRAMS FOR TECHNOLOGY DEVELOPMENT AND DISSEMINATION.

"The Secretary and the director of each departmental laboratory shall seek opportunities to coordinate their activities with programs of state and local governments for technology development and dissemination, including programs funded in part by the Secretary of Defense pursuant to section 2523 of title 10 of the United States Code and section 2513 of title 10 of the United States Code and programs funded in part by the Secretary of Commerce pursuant to sections 25 and 26 of the Act of March 3, 1901 (15 U.S.C. 278k and 2781l) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).

"SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.

"(a) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application activities, other than atomic energy defense programs, shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(b) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application of dual-use technologies within the Department's atomic energy defense activities shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(c) Funds authorized to be appropriated to the Secretary and made available for departmental laboratory-directed research and development shall be available for any partnership.

"SEC. 1113. PROTECTION OF INFORMATION.

"Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to the partnership activities undertaken by the Secretary and by the directors of the departmental laboratories.

"SEC. 1114. FAIRNESS OF OPPORTUNITY.

"(a) The Secretary and the director of each departmental laboratory shall institute procedures to ensure that information on laboratory capabilities and arrangements for participating in partnerships with the Secretary or the departmental laboratories is publicly disseminated.

"(b) Prior to entering into any partnership having a federal contribution in excess of $5,000,000, the Secretary or director of a departmental laboratory shall ensure that the opportunity to participate in such partnership has been publicly announced to potential participants.

"(c) In cases where the Secretary or the director of a departmental laboratory believes a potential partnership activity would benefit from broad participation from the private sector, the Secretary or the director of such departmental laboratory may take such steps as may be necessary to facilitate formation of an United States industry consortium to pursue the partnership activity.

"SEC. 1115. PRODUCT LIABILITY.

"The Secretary, after consultation with the Laboratory Partnership Advisory Board established in section 1109, and the Attorney General shall enter into a memorandum of understanding establishing a consistent policy and standards regarding the liability of the United States, of the non-Federal entity operating a departmental laboratory and of any other party to a partnership for product liability claims arising from partnership activities. The Secretary and the director of each departmental laboratory shall, to the maximum extent practicable, incorporate into any partnership the policy and standards established in the memorandum of understanding.

"SEC. 1116. INTELLECTUAL PROPERTY.

"The Secretary shall, after consultation with the Laboratory Partnership Advisory Board established in section 1109, develop guidelines governing the application of intellectual property laws by the Secretary and by the director of each departmental laboratory in partnership arrangements.

"SEC. 1117. SMALL BUSINESS.

"(a) The Secretary shall develop simplified procedures and guidelines for partnerships involving small businesses to facilitate access to the resources and capabilities of the departmental laboratories.

"(b) Notwithstanding any other law, the Secretary may waive, in whole or in part, any cost-sharing requirement for a small business involved in a partnership if the Secretary determines that the cost-sharing requirement would impose an undue hardship on the small business and would prevent the formation of the partnership.

"(c) Notwithstanding Section 12(d) of the Stevenson-Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), the Secretary may provide funds as part of a cooperative research and development agreement to a small business if the Secretary determines that the funds are necessary to prevent imposing an undue hardship on the small business and necessary for the formation of the cooperative research and development agreement.

"SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.

"Within one year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges and universities in preparing the report. Such report shall—

"(a) describe ongoing education and training programs being carried out by the Department or the departmental laboratories with respect to or in conjunction with minority colleges and universities in the areas of mathematics, science, and engineering;

"(b) describe ongoing research, development demonstration or commercial application activities involving the Department or the departmental laboratories and minority colleges and universities;

"(c) describe funding levels for the programs and activities described in subsections (a) and (b);

"(d) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the fields of mathematics, science, and engineering;

"(e) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

"(f) address the need for and potential role of the Department or the departmental laboratories in providing to minority colleges and universities the following:

"(1) increased research opportunities for faculty and students;

"(2) assistance in faculty development and recruitment and curriculum enhancement and development; and

"(3) laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer;

"(g) address the need for and potential role of the Department or departmental laboratories in providing funding and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities at minority colleges and universities; and

"(h) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the department laboratories to assist minority colleges and universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

"SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAM.

"The Secretary shall establish a scholarship program for students attending minority colleges or universities and pursuing a degree in energy-related scientific, mathematical, engineering, and technical disciplines. The program shall include tuition assistance. The program shall provide an opportunity for the scholarship recipient to participate in an applied work experience in a departmental laboratory. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study. Scholarships awarded under this program shall be known as Secretary of Energy Scholarships.".

"(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) is amended by adding at the end thereof the following items—

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"Sec. 1101. Finding, Purposes and Definitions.
"Sec. 1102. General Authority.
"Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
"Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
"Sec. 1105. Partnership Preferences.
"Sec. 1106. Evaluation of Partnership Programs.
"Sec. 1107. Annual Report.
"Sec. 1108. Partnership Payments.
"Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
"Sec. 1110. Fellowship Program.
"Sec. 1111. Cooperation with State and Local Programs for Technology Development And Dissemination.

SEC. 504. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES PROGRAM.

The Secretary is encouraged to use partnerships to expedite the private sector deployment of advanced manufacturing technologies as required by Section 2202(a) of the Energy Policy Act of 1992 (42 U.S.C. 13502).

SEC. 505. NOT-FOR-PROFIT ORGANIZATIONS.

The Secretary shall encourage the establishment of not-for-profit organizations, such as the Center for Applied Development of Environmental Technology (CADET), that will facilitate the transfer of technologies from the departmental laboratories to the private sector.

SEC. 506. CAREER PATH PROGRAM.

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, shall establish a career path program to recruit employees of the national laboratories to serve in positions in the Department.

(b) Section 207 to title 18, United States Code, is amended by inserting after subsection (j)(6) the following:

"(7) NATIONAL LABORATORIES.—(A) The restrictions contained in subsections (a), (b), (c), and (d) shall not apply to an appearance or communication made, or advice or aid rendered by a person employed at a facility described in subparagraph (B), if the appearance or communication is made on behalf of the facility or the advice or aid is provided to the contractor of the facility.

"(B) This paragraph applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories."

(c) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. section 423) is amended by inserting the following new subsection:

"(q) NATIONAL LABORATORIES.—(1) The restrictions on obtaining a recusal contained in paragraph (c)(2) and (c)(3) shall not apply to discussions of future employment or business opportunity between a procurement official and a competing contractor managing and operating a facility described in paragraph (3): Provided, That such discussions concern the employment of the procurement official at such facility.

"(2) The restrictions contained in paragraph (f)(1) shall not apply to activities performed on behalf of a facility described in paragraph (3).

"(3) This subsection applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

SEC. 507. DOE MANAGEMENT.

(a) Section 202(a) of the Department of Energy Organization Act (42 U.S.C. 7132(a)) is amended by striking "Under Secretary" and inserting in its place "Under Secretaries".

(b) Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows—

"(b) There shall be in the Department three Under Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform functions and duties the Secretary prescribes. The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 508. AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

(a) Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(b) Section 12(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(c) Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) by amending subparagraph (C)(i) to read as follows:

"(C)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specified modifications to, or disapprove a cooperative research and development agreement that is submitted by the director of such laboratory within thirty days after such submission. If an agency has requested specific modifications to a cooperative research and development agreement, the agency shall approve or disapprove any resubmission of such cooperative research and development agreement within fifteen days after such resubmission. Except as provided in subparagraph (D), no agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before approval of the cooperative research and development agreement.";

(2) by amending subparagraph (C)(ii) to read as follows:

"(i) If an agency that has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a cooperative research and development agreement submitted under clause (i), the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.";

(3) by amending subparagraph (C)(iii) to read as follows:

"(iii) Any agency that has contracted with a non-Federal entity to operate a laboratory shall develop and provide to such laboratory a model cooperative research and development agreement, and guidelines for using such an agreement, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling negotiation and review of a cooperative research and development agreement to be carried out in a routine and prompt manner.";

(4) by striking subparagraph (C)(iv);

(5) by amending subparagraph (C)(v) to read as follows:

"(iv) If an agency fails to complete a review under clause (i) within any of the specified time-periods, the agency shall submit to the Congress, within 10 days after the failure to complete the review, a report on the reasons for such failure. The agency shall, at the end of each successive 15-day period thereafter during which such failure continues, submit to Congress another report on the reasons for the continued failure.";

(6) by striking subparagraph (c)(vi); and

(7) by amending subparagraph (D) to read as follows:

"(D)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory may permit the director of a laboratory to enter into a cooperative research and development agreement without the submission, review, and approval of the agreement under subparagraph (C)(i) if: the Federal share under the agreement does not exceed $500,000 per year, or any amount the head of the agency may prescribe; the text of the cooperative research and development agreement is consistent with a model agreement under subparagraph (C)(iii); the agreement is entered into in accord with the agency's guidelines under paragraph (C)(iii); and the agreement is consistent with and furthers an assigned laboratory mission.

"(ii) The director of a laboratory shall notify the head of the agency of the purpose and scope of an agreement entered into under this subparagraph. The agency shall include in its annual report required by section 11(f) of this Act (15 U.S.C. 3710(f)) an assessment of the implementation of this subparagraph including a summary of agreements entered into by laboratory directors under this subparagraph.".

(d) Section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended—

(1) in paragraph (1) by inserting "and" after the second semicolon;

(2) in paragraph (2)—

(A) by striking "substantial" before "purpose" in subparagraph (B);

(B) by striking "the primary purpose" and inserting "one of the purposes" in subparagraph (C); and

(C) by striking "; and " the second time it appears and inserting a period; and

(3) by striking paragraph (3).

SEC. 509. GUIDELINES.

The implementation of the provisions of this Act shall not be delayed pending the issuance of guidelines, policies or standards required by sections 1105, 1115 and 1116 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3 of this Act.

SEC. 510. AUTHORIZATION.

(a) In addition to funds made available for partnerships under section 1112 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3 of this Act, there is authorized to be appropriated from funds otherwise available to the Secretary:

(1) for partnership activities with industry in areas other than atomic energy defense activities $100,000,000 for fiscal year 1994, $140,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996 and 220,000,000 for fiscal year 1997; and

(2) for partnership activities with industry involving dual-use technologies within the Department's atomic energy defense activities $240,000,000 for fiscal year 1994, $290,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996 and $400,000,000 for fiscal year 1997.

(b) There is authorized to be appropriated to the Secretary for the Minority College and University Scholarship Program established in section 1119 of the Department of Energy Organization Act (42 U.S.C. 7101 et.

seq.) as added by section 3 of this Act $1,000,000 for fiscal year 1994, $2,000,000 for fiscal year 1995 and $3,000,000 for fiscal year 1996.

(c) There is authorized to be appropriated to the Secretary for research or educational programs, carried out through partnerships or otherwise, and for related facilities and equipment that involve minority colleges or universities such sums as may be necessary.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

BINGAMAN (AND OTHERS) AMENDMENT NO. 2606

Mr. LEVIN (for Mr. BINGAMAN, for himself, Mr. MCCAIN, Mr. SIMON, and Mrs. HUTCHISON) proposed an amendment to the bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to pubic or private nonprofit entities who act to prevent or resolve such problems of who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individual who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues. If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT OF 1994

SIMON AMENDMENT NO. 2607

Mr. LEVIN (for Mr. SIMON) proposed an amendment to the bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes; as follows:

On page 1, strike line 6 and all that follows through page 2, line 15.

On page 2, line 16, strike "3" and insert "2".

On page 3, line 1, strike "4" and insert "3".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, September 30, 1994, to conduct a nominations hearing for: Bruce Morrison, to be Director of the Federal Housing Finance Board; Timothy O'Neill, to be a member of the Federal Housing Finance Board; and James Clifford Hudson, to be Director of the Securities Investor Protection Corporation

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Friday, September 30, at 1:30 p.m. to hold a nomination hearing on Lori Esposito Murray, to be an assistant Director of the U.S. Arms Control and Disarmament Agency.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent on behalf of the

Governmental Affairs Committee for authority to meet on Friday, September 30, 1994, for a markup on the nominations of Alice Rivlin, Director, OMB, and Harvey Ryland, Deputy Director, FEMA.

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

ADDITIONAL STATEMENTS

DISSOLUTION OF THE NORTHERN FOREST LANDS COUNCIL

• Mr. LEAHY. Mr. President, I rise today to mark the final day of the Northern Forest Lands Council which will officially dissolve at 5 p.m. this afternoon.

I bring this before my colleagues today because I believe that the council's work will touch not only the northern forest, but the Nation. I am proud of what the council has done for the north country, but I am also hopeful for rural America. The council's effort provides a national model for managing natural resources.

The Northern Forest Lands Council was created in 1990 to avoid a crisis, not to react to one. Too often we wait until the timber resource is depleted, the streams are choked, property values have fallen, families are suffering, and communities are divided before we act. We should work to sculpt a future, rather than reconstruct broken pieces.

If one drives through New England today, things look fine. The fall foliage in the northern forest is at peak brilliance, green farms dot the landscape, and smoke curls from chimneys in the crisp autumn air. Today's northern Vermont is almost the epitome of peace and contentment. And yet people chose to act.

It is easy to ignore the problems at the doorstep of the northern forest. Seventy million people, a quarter of the United States, can be at the forest within an 8 hour drive, but only a few have come so far. Regressive tax policies, global trade, urban influences, environmental degradation, and other pressures exist but they are not unbearable—yet.

You can see how it would be easy to become complacent and let chance and circumstance infiltrate the forest. If you read the council's report, you can also see the tremendous advantage for taking local control—and for choosing a future instead of accepting one.

Choosing a future means raising children in a safe community, retiring with security, and working a sustainable job. Choosing a future means choosing lifestyle and realizing goals. Those of us lucky enough to choose our future know the satisfaction of realizing it. This is what the council was all about.

Taking control is not only a good investment for local people, it is prudent for the country. We know too well that taxpayers now bear the brunt of ecological collapse in the Pacific Northwest. Tens of millions of dollars have been spent to clean up mistakes in resource management. No amount of money can compensate for the social pain that has been endured.

Taxpayers may soon pay the price of ecological collapse of the North Atlantic fishery where some stocks of fish are 95 percent below their historic levels. While the region performs triage on this disaster, many fishermen are bound to lose their livelihoods and lifestyles. Water shortages in the South and in California, flooding in the bottomlands of the midwest, fire in the forests of the Rocky Mountains—all of these disasters have ripped the rug out from underneath the lives of some hard-working Americans.

Hard-working Americans have suffered from a fate they neither chose nor wanted. In the late 1980's, the people of the northern forest recognized that the power to choose still existed. The Northern Forest Land Council's 1994 report describes their choice. It serves the goals of the northern forest communities and it serves the Nation.

I urge my northern forest colleagues in New York, Vermont, New Hampshire, and Maine to study the council's process and consider carefully the recommendations. There are a number of recommendations that require our direct leadership and dedication. Divergent viewpoints have converged on common themes. The people have produced comprehensive consensus requests that range from tax law reform to biodiversity protection. Together we can bring home the future that our constituents have chosen. The time to act is now, and I welcome my colleagues' active interest.

For the rest of my colleagues, I hope that you find our process useful to the issues that perplex your people and threaten the resources. The council members know that they have done more than protect the northern forest. They have set up a model of community participation, productive dialog, and consensus decisionmaking that could serve other parts of the country very well.

Finally, I want to commend once again the men and women who I believe have set a standard for natural resource management in our country. The Citizen Advisory Committees and in Vermont the Citizen's Network provided thoughtfulness and leadership from the moment they were convened several years ago to the final meeting of the council a week ago today.

The volunteer council members dedicated many weekends, weeknights, and vacation days to serving the northern forest communities. Their dedication outstrips all of my expectations and I am very grateful. They can resume their family lives knowing that their families will inherit a future that the north country chose, rather than a fate that was delivered.•

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise this afternoon in my continuing effort to put a face on the health care crisis in our country. Today, I would like to share the story of Robert and Carol Athey and their two boys, Clare and Brent, of Owosso, MI.

Forty-four year old Robert has been a member of the Michigan National Guard for 24 years and is a veteran of both Vietnam and the Persian Gulf war. In November 1991, Robert injured his knee during a weekend drill with the Guard. This injury was so disabling that he lost his job assembling door panels in an auto parts factory. Along with losing his job, Robert and his family lost their employer provided Blue Cross/Blue Shield health insurance. Since the National Guard does not provide health insurance coverage of any kind, the Atheys have been paying for their family's medical expenses on their own for the past 3 years.

Robert is unable to stand up for any significant period of time so his job prospects are poor in Owosso, which is largely a factory town. When he was an active member of the National Guard, Robert had received $285 per month. Without a job, this income source became crucial to support the family, and Robert struggled to return to active participation in Guard activities. Unfortunately, his knee was reinjured on duty this year, causing him to drop out completely. Robert has been trying to work out an agreement with the Guard about treatment and disability compensation for his injuries. Meanwhile, his family no longer receives this supplemental income, and Robert cannot afford to pay for the corrective surgery he needs for his leg.

Carol, age 40, is a self-employed taxidermist and now provides the family's only source of income. Carol's earnings vary, but average about $1,000 per month. As a self-employed businesswoman, she does not have access to affordable health insurance through her work, and her income is just $100 too high for her children to qualify for Medicaid coverage. Understandably, this leaves Carol with the feeling that she's being punished for working.

The house payment, light and phone bills, minimal car insurance and food take nearly all of the Athey's current income, leaving them unable to afford even the most limited health insurance. It is not uncommon for them to miss a payment on their light or phone bills to cover medical expenses, and they have received many cut off notices for these services. Robert and Carol have resorted to borrowing money from family.

79-059 O—97 Vol. 140 (Pt. 19) 31

The Atheys have met with several insurance agents, but cannot find any health coverage that they can afford. The least expensive policy offered to the Athey's has a premium of $207 per month. That amount alone represents over 20 percent of their income, and copayments would also be required. They simply do not earn enough money to purchase health insurance for themselves and their children.

Carol herself has a thyroid condition that requires medication as well as an office visit and lab tests every 6 months. These services, which total $450 every visit, would not be covered under the policies they considered because of preexisting condition exclusions. Because she cannot afford it on her own, Carol has not had a full medical checkup for her condition in 6 years.

The Atheys' tell me that they have had more medical problems since Robert's return from the Persian Gulf, many of which they attribute to his service. He experiences back pain, aching joints, fatigue, headaches, sleeplessness, gastrointestinal problems, and night sweats. Robert is also in critical need of dental work, which has been estimated at $2,600. On top of all these problems, Robert's vision has deteriorated to the point that he now uses a magnifying glass and his glasses when he reads. But Robert and his family cannot afford to take care of these physical problems.

Four-year-old Clare and 8-year-old Brent experience chronic sore throats, ear infections, digestive difficulties, and upper respiratory problems in much greater frequency than before their father left for the Gulf war. Clare currently has strep throat, which is costing the Athey's approximately $90 to treat.

Robert can receive some care through the Department of Veterans Affairs, but the rest of his family is not eligible for any services. And the VA has already told Robert to expect a 2-year wait for the knee surgery he desperately needs.

The Athey's greatest fear is that they may not ever have health insurance. Like so many others, the Athey family has served our country both in times of peace and times of war and conflict. Yet they cannot count on the most basic of health services back here at home. Unless we reform our country's current health care system, this family may never be able to purchase the comprehensive health insurance they need.

Mr. President, since August 1992 when I came to the Senate floor to tell the story of the Robert Miller family, I have presented the cases of 67 Michigan families and individuals who have suffered severely because of the health care crisis in this country. When I started reading these weekly stories, I vowed to continue until my colleagues and I passed meaningful health care reform legislation in the 103d Congress. This week's announcement by the majority leader makes clear that all hope of accomplishing this has vanished.

I am deeply disappointed at the direction health care reform negotiations took this year—disappointed at the lack of cooperation and consensus—disappointed in the tens of millions of dollars the wealthy special interest groups spent fighting against even the most modest reforms and improvements. But more than that, I am saddened that the lives of hardworking Americans like the Atheys are getting harder, and that thousands more families will have to face a similar hardship. President Clinton and the First Lady have dedicated themselves to improving the health care system in our Nation, and I urge my colleagues to make health care reform the first order of business in the 104th Congress.●

ORDERS FOR MONDAY, OCTOBER 3, 1994

Mr. LEVIN. 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 5 p.m., Monday, October 3; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that the time until 6 p.m. be equally divided and controlled between the majority leader and the minority leader, or their designees.

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

RECESS UNTIL MONDAY, OCTOBER 3, 1994, AT 5 P.M.

Mr. LEVIN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:06 p.m., recessed until Monday, October 3, 1994, at 5 p.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 1994:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

JAMES H. ATKINS, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 1996, VICE ROGER W. MEHLE, RESIGNED.

SCOTT B. LUKINS, OF WASHINGTON, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 1995, VICE JOHN DAVID DAVENPORT, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

JAY C. EHLE, OF OHIO, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, VICE CONRAD FREDIN.

NATIONAL INSTITUTE OF BUILDING SCIENCES

STEVE M. HAYS, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1997, VICE DIANNE E. INGELS, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHARLES HUMMEL, OF DELAWARE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1994, VICE MARILYN LOGSDON MENNELLO, TERM EXPIRED.

CHARLES HUMMEL, OF DELAWARE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1999. (REAPPOINTMENT.)

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 1994:

INTERSTATE COMMERCE COMMISSION

GUS A. OWEN, OF CALIFORNIA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 1997.

DEPARTMENT OF TRANSPORTATION

ANTHONY S. EARL, OF WISCONSIN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

VINCENT J. SORRENTINO, OF NEW YORK, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

DEPARTMENT OF DEFENSE

PAUL G. KAMINSKI, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARC LINCOLN MARKS, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 2000.

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.

DEPARTMENT OF THE INTERIOR

HAROLD A. MONTEAU, OF MONTANA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF 3 YEARS.

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF 2 YEARS.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. STANLEY R. ARTHUR, 278-30-9765

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING MICHAEL S. SWEGLES, AND ENDING JAMES B. DONOVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 26, 1994.